

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 94

**Introduced by Assembly Member Levine Committee on Utilities
and Commerce (Levine (Chair), Keene (Vice Chair), Bass,
Blakeslee, Davis, Huffman, Jones, Krekorian, Smyth, Tran)**

December 20, 2006

An act to amend ~~Section 25740 of the Public Resources Code, and to amend Sections 399.11 and 399.15 of the Public Utilities Code, relating to renewable energy. Sections 25302.5 and 25534 of the Public Resources Code, to amend Sections 5, 20, 216, 353.11, 366.2, 380, 387, 387.5, 394.5, 395.5, 399.12, 701.8, 761.3, 848, 2774.5, 2827, 2852, 3302, 7000, 8340, and 9604 of, to amend and renumber Sections 228.5 and 399.25 of, to add Section 224.3 to, to repeal Section 399.1 of, to repeal the heading of Article 15 (commencing with Section 399) of Chapter 2.3 of, and to repeal the heading of Article 5 (commencing with Section 445) of Chapter 2.5 of, Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 94, as amended, ~~Levine Committee on Utilities and Commerce.~~
Renewable energy.

(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The existing Public Utilities Code and Public Utilities Act define certain terms for purposes of the code and the act, respectively.

This bill would provide that the definitions contained in the act govern the construction of the code unless the provision or context otherwise

requires. The bill would define the term “Energy Commission” as meaning the State Energy Resources Conservation and Development Commission for purposes of the code, and would define the term “local publicly owned electric utility” within the act.

(2) The existing definition of a “public utility” within the act provides that ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission (FERC) as an exempt wholesale generator pursuant to a specified section of the Public Utility Holding Company Act of 1935 does not make a corporation or person a public utility solely due to the ownership or operation of the facility. The existing definition of an “exempt wholesale generator” defined the term by incorporating the definition from the Public Utility Holding Company Act of 1935. The federal Energy Policy Act of 2005 repealed the Public Utility Holding Company Act of 1935 and adopted the Public Utility Holding Company Act of 2005, which includes a definition for “exempt wholesale generator.” The definition of a “public utility” provides that ownership, control, operation, or management of an electric plant used for sales into the Power Exchange does not make a corporation or person a public utility solely because of that ownership, participation, or sale.

This bill would delete references to facilities certified by the FERC as “exempt wholesale generators” pursuant to the Public Utility Holding Company Act of 1935, and would instead reference the definition of that term in the Public Utility Holding Company Act of 2005. The bill would replace the provision in the definition of a “public utility” that provides that ownership, control, operation, or management of an electric plant used for sales into the Power Exchange does not make a corporation or person a public utility with a provision that ownership, control, operation, or management of an electric plant used for sales into a market established and operated by the Independent System Operator or any other wholesale electricity market does not make a corporation or person a public utility solely due to the ownership, participation, or sale.

(3) The bill would define what is a “local publicly owned electric utility” within the act.

(4) The act defines an “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, as defined. Pursuant to the act, an “electric service provider” does not include an electrical corporation or a local

publicly owned electric corporation, but does include the unregulated affiliates and subsidiaries of an electrical corporation.

Existing law relative to private energy producers defines an “electric service provider” as an electrical corporation, electrical cooperative, or local publicly owned electric utility, excluding a local publicly owned electric utility that serves more than 750,000 customers and that also conveys water to its customers. Existing law relative to private energy producers requires every electric service provider, upon request, to make available to eligible customer-generators contracts or tariffs for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds a specified amount.

This bill would replace the definition of “electric service provider” in existing law relative to private energy producers with a definition of “electricity distribution utility or cooperative,” which would not include local publicly owned electric utilities, for which there are separate provisions.

(5) A decision of the PUC adopted the California Solar Initiative. Existing law requires the PUC to undertake certain steps in implementing the California Solar Initiative, defines what is an eligible solar energy system for purposes of the program, and regulates the use of funds under the California Solar Initiative, including ensuring that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined.

This bill would conform those definitions of a “solar energy system,” as specified.

(6) This bill would make other technical, nonsubstantive changes.

~~(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010.~~

~~This bill would revise the intent language so that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 33% of the total electricity sold to retail customers in California per year by December 31, 2020.~~

~~(2) The Public Utilities Act imposes various duties and responsibilities on the California Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to~~

~~review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller, as defined, of electricity, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each retail seller to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.~~

~~This bill would instead require that each retail seller increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 33% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2020.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25302.5 of the Public Resources Code is
- 2 amended to read:
- 3 25302.5. (a) As part of each integrated energy policy report
- 4 required pursuant to Section 25302, each entity that serves or plans
- 5 to serve electricity to retail customers, including, but not limited
- 6 to, electrical corporations, nonutility electric service providers,
- 7 community choice aggregators, and local publicly owned electric
- 8 utilities, shall provide the commission with its forecast of both of
- 9 the following:
- 10 (1) The amount of its forecasted load that may be lost or added
- 11 by any of the following:
- 12 (A) A community choice aggregator.
- 13 (B) An existing local publicly owned electric utility.
- 14 (C) A newly formed local publicly owned electric utility.
- 15 (2) Load that will be served by an electric service provider.
- 16 (b) The commission shall perform an assessment in the service
- 17 territory of each electrical corporation of the loss or addition of

1 load described in this section and submit the results of the
2 assessment to the Public Utilities Commission.

3 (c) Notwithstanding subdivision (a), the commission may
4 exempt from the forecasting requirements in that subdivision, a
5 local publicly owned electric utility that is not planning to acquire
6 additional load beyond its existing exclusive service territory within
7 the forecast period provided by the commission pursuant to Section
8 25303.

9 (d) For purposes of this section, the following terms have the
10 following meanings:

11 (1) "Community choice aggregator" means any "community
12 choice aggregator" as defined in Section 331.1 of the Public
13 Utilities Code.

14 (2) "Electrical corporation" means any "electrical corporation"
15 as defined in Section 218 of the Public Utilities Code.

16 (3) "Electric service provider" means any "electric service
17 provider" as defined in Section 218.3 of the Public Utilities Code.

18 (4) "Local publicly owned electric utility" means any "local
19 publicly owned electric utility" as defined in Section ~~9604~~ 224.3
20 of the Public Utilities Code.

21 *SEC. 2. Section 25534 of the Public Resources Code is*
22 *amended to read:*

23 25534. (a) The commission may, after one or more hearings,
24 amend the conditions of, or revoke the certification for, any facility
25 for any of the following reasons:

26 (1) Any material false statement set forth in the application,
27 presented in proceedings of the commission, or included in
28 supplemental documentation provided by the applicant.

29 (2) Any significant failure to comply with the terms or
30 conditions of approval of the application, as specified by the
31 commission in its written decision.

32 (3) A violation of this division or any regulation or order issued
33 by the commission under this division.

34 (4) The owner of a project does not start construction of the
35 project within 12 months after the date all permits necessary for
36 the project become final and all administrative and judicial appeals
37 have been resolved provided the California Consumer Power and
38 Conservation Financing Authority notifies the commission that it
39 is willing and able to construct the project pursuant to subdivision
40 (g). The project owner may extend the 12-month period by 24

1 additional months pursuant to subdivision (f). This paragraph
2 applies only to projects with a project permit application deemed
3 complete by the commission after January 1, 2003.

4 (b) The commission may also administratively impose a civil
5 penalty for a violation of paragraph (1) or (2) of subdivision (a).
6 Any civil penalty shall be imposed in accordance with Section
7 25534.1 and may not exceed seventy-five thousand dollars
8 (\$75,000) per violation, except that the civil penalty may be
9 increased by an amount not to exceed one thousand five hundred
10 dollars (\$1,500) per day for each day in which the violation occurs
11 or persists, but the total of the per day penalties may not exceed
12 fifty thousand dollars (\$50,000).

13 (c) A project owner shall commence construction of a project
14 subject to the start-of-construction deadline provided by paragraph
15 (4) of subdivision (a) within 12 months after the project has been
16 certified by the commission and after all accompanying project
17 permits are final and administrative and judicial appeals have been
18 completed. The project owner shall submit construction and
19 commercial operation milestones to the commission within 30
20 days after project certification. Construction milestones shall
21 require the start of construction within the 12-month period
22 established by this subdivision. The commission shall approve
23 milestones within 60 days after project certification. If the 30-day
24 deadline to submit construction milestones to the commission is
25 not met, the commission shall establish milestones for the project.

26 (d) The failure of the owner of a project subject to the
27 start-of-construction deadline provided by paragraph (4) of
28 subdivision (a) to meet construction or commercial operation
29 milestones, without a finding by the commission of good cause,
30 shall be cause for revocation of certification or the imposition of
31 other penalties by the commission.

32 (e) A finding by the commission that there is good cause for
33 failure to meet the start-of-construction deadline required by
34 paragraph (4) of subdivision (a) or any subsequent milestones of
35 subdivision (c) shall be made if the commission determines that
36 any of the following criteria are met:

37 (1) The change in any deadline or milestone does not change
38 the established deadline or milestone for the start of commercial
39 operation.

1 (2) The deadline or milestone is changed due to circumstances
2 beyond the project owner's control, including, but not limited to,
3 administrative and legal appeals.

4 (3) The deadline or milestone will be missed but the project
5 owner demonstrates a good faith effort to meet the project deadline
6 or milestone.

7 (4) The deadline or milestone will be missed due to unforeseen
8 natural disasters or acts of God that prevent timely completion of
9 the project deadline or milestone.

10 (5) The deadline or milestone will be missed for any other reason
11 determined reasonable by the commission.

12 (f) The commission shall extend the start-of-construction
13 deadline required by paragraph (4) of subdivision (a) by an
14 additional 24 months, if the owner reimburses the commission's
15 actual cost of licensing the project, less the amount paid pursuant
16 to subdivision (a) of Section 25806. For the purposes of this
17 section, the commission's actual cost of licensing the project shall
18 be based on a certified audit report filed by the commission staff
19 within 180 days of the commission's certification of the project.
20 The certified audit shall be filed and served on all parties to the
21 proceeding, is subject to public review and comment, and is subject
22 to at least one public hearing if requested by the project owner.
23 Any reimbursement received by the commission pursuant to this
24 subdivision shall be deposited in the General Fund.

25 (g) If the owner of a project subject to the start-of-construction
26 deadline provided by paragraph (4) of subdivision (a) fails to
27 commence construction, without good cause, within 12 months
28 after the project has been certified by the commission and has not
29 received an extension pursuant to subdivision (f), the commission
30 shall provide immediate notice to the California Consumer Power
31 and Conservation Financing Authority. The authority shall evaluate
32 whether to pursue the project independently or in conjunction with
33 any other public or private entity, including the original certificate
34 holder. If the authority demonstrates to the commission that it is
35 willing and able to construct the project either independently or
36 in conjunction with any other public or private entity, including
37 the original certificate holder, the commission may revoke the
38 original certification and issue a new certification for the project
39 to the authority, unless the authority's statutory authorization to
40 finance or approve new programs, enterprises, or projects has

1 expired. If the authority declines to pursue the project, the permit
2 shall remain with the current project owner until it expires pursuant
3 to the regulations adopted by the commission.

4 (h) If the commission issues a new certification for a project
5 subject to the start-of-construction deadline provided by paragraph
6 (4) of subdivision (a) to the authority, the commission shall adopt
7 new milestones for the project that allow the authority up to 24
8 months to start construction of the project or to start to meet the
9 applicable deadlines or milestones. If the authority fails to begin
10 construction in conformity with the deadlines or milestones adopted
11 by the commission, without good cause, the certification may be
12 revoked.

13 (i) (1) If the commission issues a new certification for a project
14 subject to the start-of-construction deadline provided by paragraph
15 (4) of subdivision (a) to the authority and the authority pursues
16 the project without participation of the original certificate holder,
17 the authority shall offer to reimburse the original certificate holder
18 for the actual costs the original certificate holder incurred in
19 permitting the project and in procuring assets associated with the
20 license, including, but not limited to, major equipment and the
21 emission offsets. In order to receive reimbursement, the original
22 certificate holder shall provide to the commission documentation
23 of the actual costs incurred in permitting the project. The
24 commission shall validate those costs. The certificate holder may
25 refuse to accept the offer of reimbursement for any asset associated
26 with the license and retain the asset. To the extent the certificate
27 holder chooses to accept the offer for an asset, it shall provide the
28 authority with the asset.

29 (2) If the authority reimburses the original certificate holder for
30 the costs described in paragraph (1), the original certificate holder
31 shall provide the authority with all of the assets for which the
32 original certificate holder received reimbursement.

33 (j) This section does not prevent a certificate holder from selling
34 its license to construct and operate a project prior to its revocation
35 by the commission. In the event of a sale to an entity that is not
36 an affiliate of the certificate holder, the commission shall adopt
37 new deadlines or milestones for the project that allow the new
38 certificate holder up to 12 months to start construction of the
39 project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities" *utilities*, as defined in ~~subdivision (d) of Section 9604~~ 224.3 of the Public Utilities Code, whose governing bodies certify to the commission that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission and the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 3. Section 5 of the Public Utilities Code is amended to read:

5. Unless the provision or the context otherwise requires, ~~these~~ the definitions, rules of construction, and *other* general provisions contained in Sections 1 to 22, inclusive, and the definitions in the Public Utilities Act (Chapter 1 (commencing with Section 201) of Part 1 of Division 1), shall govern the construction of this code.

1 *SEC. 4. Section 20 of the Public Utilities Code is amended to*
2 *read:*

3 20. (a) “Commission” means the Public Utilities Commission
4 created by Section 1 of Article XII of the ~~State~~ *California*
5 Constitution, and “commissioner” means a member of the
6 commission.

7 (b) “*Energy Commission*” means the *State Energy Resources*
8 *Conservation and Development Commission*.

9 *SEC. 5. Section 216 of the Public Utilities Code is amended*
10 *to read:*

11 216. (a) “Public utility” includes every common carrier, toll
12 bridge corporation, pipeline corporation, gas corporation, electrical
13 corporation, telephone corporation, telegraph corporation, water
14 corporation, sewer system corporation, and heat corporation, where
15 the service is performed for, or the commodity is delivered to, the
16 public or any portion thereof.

17 (b) Whenever any common carrier, toll bridge corporation,
18 pipeline corporation, gas corporation, electrical corporation,
19 telephone corporation, telegraph corporation, water corporation,
20 sewer system corporation, or heat corporation performs a service
21 for, or delivers a commodity to, the public or any portion thereof
22 for which any compensation or payment whatsoever is received,
23 that common carrier, toll bridge corporation, pipeline corporation,
24 gas corporation, electrical corporation, telephone corporation,
25 telegraph corporation, water corporation, sewer system corporation,
26 or heat corporation, is a public utility subject to the jurisdiction,
27 control, and regulation of the commission and the provisions of
28 this part.

29 (c) When any person or corporation performs any service for,
30 or delivers any commodity to, any person, private corporation,
31 municipality, or other political subdivision of the state, that in turn
32 either directly or indirectly, mediately or immediately, performs
33 that service for, or delivers that commodity to, the public or any
34 portion thereof, that person or corporation is a public utility subject
35 to the jurisdiction, control, and regulation of the commission and
36 the provisions of this part.

37 (d) Ownership or operation of a facility that employs
38 cogeneration technology or produces power from other than a
39 conventional power source or the ownership or operation of a
40 facility which employs landfill gas technology does not make a

1 corporation or person a public utility within the meaning of this
2 section solely because of the ownership or operation of that facility.

3 (e) Any corporation or person engaged directly or indirectly in
4 developing, producing, transmitting, distributing, delivering, or
5 selling any form of heat derived from geothermal or solar resources
6 or from cogeneration technology to any privately owned or publicly
7 owned public utility, or to the public or any portion thereof, is not
8 a public utility within the meaning of this section solely by reason
9 of engaging in any of those activities.

10 (f) The ownership or operation of a facility that sells compressed
11 natural gas at retail to the public for use only as a motor vehicle
12 fuel, and the selling of compressed natural gas at retail from that
13 facility to the public for use only as a motor vehicle fuel, does not
14 make the corporation or person a public utility within the meaning
15 of this section solely because of that ownership, operation, or sale.

16 ~~(g) Ownership or operation of a facility that has been certified~~
17 ~~by the Federal Energy Regulatory Commission as an exempt~~
18 ~~wholesale generator pursuant to Section 32 of the Public Utility~~
19 ~~Holding Company Act of 1935 (Chapter 2C (commencing with~~
20 ~~Section 79) of Title 15 of the United States Code) does not make~~
21 ~~a corporation or person a public utility within the meaning of this~~
22 ~~section, solely due to the ownership or operation of that facility.~~

23 ~~(h)–~~
24 *(g) Ownership or operation of a facility that is an exempt*
25 *wholesale generator, as defined in the Public Utility Holding*
26 *Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make*
27 *a corporation or person a public utility within the meaning of this*
28 *section, solely due to the ownership or operation of that facility.*

29 (h) The ownership, control, operation, or management of an
30 electric plant used for direct transactions or participation directly
31 or indirectly in direct transactions, as permitted by subdivision (b)
32 of Section 365, sales into ~~the Power Exchange referred to in Section~~
33 ~~365~~ *a market established and operated by the Independent System*
34 *Operator or any other wholesale electricity market*, or the use or
35 sale as permitted under subdivisions (b) to (d), inclusive, of Section
36 218, shall not make a corporation or person a public utility within
37 the meaning of this section solely because of that ownership,
38 participation, or sale.

39 SEC. 6. Section 224.3 is added to the Public Utilities Code, to
40 read:

1 224.3. “Local publicly owned electric utility” means a
2 municipality or municipal corporation operating as a “public
3 utility” furnishing electric service as provided in Section 10001,
4 a municipal utility district furnishing electric service formed
5 pursuant to Division 6 (commencing with Section 11501), a public
6 utility district furnishing electric services formed pursuant to the
7 Public Utility District Act set forth in Division 7 (commencing
8 with Section 15501), an irrigation district furnishing electric
9 services formed pursuant to the Irrigation District Law set forth
10 in Division 11 (commencing with Section 20500) of the Water
11 Code, or a joint powers authority that includes one or more of
12 these agencies and that owns generation or transmission facilities,
13 or furnishes electric services over its own or its member’s electric
14 distribution system.

15 SEC. 7. Section 228.5 of the Public Utilities Code is amended
16 and renumbered to read:

17 ~~228.5.~~

18 218.5. (a) The following terms—~~qualifying~~ have the following
19 meanings:

20 (1) “Exempt wholesale generator” has the same meaning as
21 defined in the Public Utility Holding Company Act of 2005 (42
22 U.S.C. Sec. 16451(6)).

23 (2) *Qualifying* small power producer,” “small power production
24 facility,” and “qualifying small power production facility” have
25 the same meaning as found in Section 796 of Title 16 of the United
26 States Code and regulations enacted pursuant thereto.

27 (b) Notwithstanding any other provision of law, a qualifying
28 small power producer owning or operating a small power
29 production facility is not a public utility subject to the general
30 jurisdiction of the commission solely because of the ownership or
31 operation of the facility.

32 ~~(c) The term “exempt wholesale generator” has the same~~
33 ~~meaning as found in Section 79z-5a of Title 15 of the United States~~
34 ~~Code, and regulations enacted pursuant thereto.~~

35 ~~(d)~~

36 (c) Notwithstanding any other provision of law, an exempt
37 wholesale generator is not a public utility subject to the general
38 jurisdiction of the commission solely due to the ownership or
39 operation of the facility.

1 *SEC. 8. Section 353.11 of the Public Utilities Code is amended*
2 *to read:*

3 353.11. A local publicly owned electric utility, ~~as defined in~~
4 ~~subdivision (d) of Section 9604~~, or a local publicly owned utility
5 otherwise providing electrical service, shall review at the earliest
6 practicable date its rates, tariffs, and rules to identify barriers to
7 and determine the appropriate balance of costs and benefits of
8 distributed energy resources in order to facilitate the installation
9 of these resources in the interests of their customer-owners and
10 the state, and shall hold at least one noticed public meeting to
11 solicit public comment on the review and any recommended
12 changes. However, notwithstanding any other provision of this
13 article, such an entity has the sole authority to undertake such a
14 review and to make modifications to its rates, tariffs, and rules as
15 the governing body of that utility determines to be necessary.

16 *SEC. 9. Section 366.2 of the Public Utilities Code is amended*
17 *to read:*

18 366.2. (a) (1) Customers shall be entitled to aggregate their
19 electric loads as members of their local community with
20 community choice aggregators.

21 (2) Customers may aggregate their loads through a public
22 process with community choice aggregators, if each customer is
23 given an opportunity to opt out of their community's aggregation
24 program.

25 (3) If a customer opts out of a community choice aggregator's
26 program, or has no community choice program available, that
27 customer shall have the right to continue to be served by the
28 existing electrical corporation or its successor in interest.

29 (b) If a public agency seeks to serve as a community choice
30 aggregator, it shall offer the opportunity to purchase electricity to
31 all residential customers within its jurisdiction.

32 (c) (1) Notwithstanding Section 366, a community choice
33 aggregator is hereby authorized to aggregate the electrical load of
34 interested electricity consumers within its boundaries to reduce
35 transaction costs to consumers, provide consumer protections, and
36 leverage the negotiation of contracts. However, the community
37 choice aggregator may not aggregate electrical load if that load is
38 served by a local publicly owned electric utility, ~~as defined in~~
39 ~~subdivision (d) of Section 9604~~. A community choice aggregator
40 may group retail electricity customers to solicit bids, broker, and

1 contract for electricity and energy services for those customers.
2 The community choice aggregator may enter into agreements for
3 services to facilitate the sale and purchase of electricity and other
4 related services. Those service agreements may be entered into by
5 a single city or county, a city and county, or by a group of cities,
6 cities and counties, or counties.

7 (2) Under community choice aggregation, customer participation
8 may not require a positive written declaration, but all customers
9 shall be informed of their right to opt out of the community choice
10 aggregation program. If no negative declaration is made by a
11 customer, that customer shall be served through the community
12 choice aggregation program.

13 (3) A community choice aggregator establishing electrical load
14 aggregation pursuant to this section shall develop an
15 implementation plan detailing the process and consequences of
16 aggregation. The implementation plan, and any subsequent changes
17 to it, shall be considered and adopted at a duly noticed public
18 hearing. The implementation plan shall contain all of the following:

19 (A) An organizational structure of the program, its operations,
20 and its funding.

21 (B) Ratesetting and other costs to participants.

22 (C) Provisions for disclosure and due process in setting rates
23 and allocating costs among participants.

24 (D) The methods for entering and terminating agreements with
25 other entities.

26 (E) The rights and responsibilities of program participants,
27 including, but not limited to, consumer protection procedures,
28 credit issues, and shutoff procedures.

29 (F) Termination of the program.

30 (G) A description of the third parties that will be supplying
31 electricity under the program, including, but not limited to,
32 information about financial, technical, and operational capabilities.

33 (4) A community choice aggregator establishing electrical load
34 aggregation shall prepare a statement of intent with the
35 implementation plan. Any community choice load aggregation
36 established pursuant to this section shall provide for the following:

37 (A) Universal access.

38 (B) Reliability.

39 (C) Equitable treatment of all classes of customers.

1 (D) Any requirements established by state law or by the
2 commission concerning aggregated service.

3 (5) In order to determine the cost-recovery mechanism to be
4 imposed on the community choice aggregator pursuant to
5 subdivisions (d), (e), and (f) that shall be paid by the customers of
6 the community choice aggregator to prevent shifting of costs, the
7 community choice aggregator shall file the implementation plan
8 with the commission, and any other information requested by the
9 commission that the commission determines is necessary to develop
10 the cost-recovery mechanism in subdivisions (d), (e), and (f).

11 (6) The commission shall notify any electrical corporation
12 serving the customers proposed for aggregation that an
13 implementation plan initiating community choice aggregation has
14 been filed, within 10 days of the filing.

15 (7) Within 90 days after the community choice aggregator
16 establishing load aggregation files its implementation plan, the
17 commission shall certify that it has received the implementation
18 plan, including any additional information necessary to determine
19 a cost-recovery mechanism. After certification of receipt of the
20 implementation plan and any additional information requested,
21 the commission shall then provide the community choice
22 aggregator with its findings regarding any cost recovery that must
23 be paid by customers of the community choice aggregator to
24 prevent a shifting of costs as provided for in subdivisions (d), (e),
25 and (f).

26 (8) No entity proposing community choice aggregation shall
27 act to furnish electricity to electricity consumers within its
28 boundaries until the commission determines the cost-recovery that
29 must be paid by the customers of that proposed community choice
30 aggregation program, as provided for in subdivisions (d), (e), and
31 (f). The commission shall designate the earliest possible effective
32 date for implementation of a community choice aggregation
33 program, taking into consideration the impact on any annual
34 procurement plan of the electrical corporation that has been
35 approved by the commission.

36 (9) All electrical corporations shall cooperate fully with any
37 community choice aggregators that investigate, pursue, or
38 implement community choice aggregation programs. Cooperation
39 shall include providing the entities with appropriate billing and
40 electrical load data, including, but not limited to, data detailing

1 electricity needs and patterns of usage, as determined by the
2 commission, and in accordance with procedures established by
3 the commission. Electrical corporations shall continue to provide
4 all metering, billing, collection, and customer service to retail
5 customers that participate in community choice aggregation
6 programs. Bills sent by the electrical corporation to retail customers
7 shall identify the community choice aggregator as providing the
8 electrical energy component of the bill. The commission shall
9 determine the terms and conditions under which the electrical
10 corporation provides services to community choice aggregators
11 and retail customers.

12 (10) (A) A city, county, or city and county that elects to
13 implement a community choice aggregation program within its
14 jurisdiction pursuant to this chapter shall do so by ordinance.

15 (B) Two or more cities, counties, or cities and counties may
16 participate as a group in a community choice aggregation pursuant
17 to this chapter, through a joint powers agency established pursuant
18 to Chapter 5 (commencing with Section 6500) of Division 7 of
19 Title 1 of the Government Code, if each entity adopts an ordinance
20 pursuant to subparagraph (A).

21 (11) Following adoption of aggregation through the ordinance
22 described in paragraph (10), the program shall allow any retail
23 customer to opt out and to continue to be served as a bundled
24 service customer by the existing electrical corporation, or its
25 successor in interest. Delivery services shall be provided at the
26 same rates, terms, and conditions, as approved by the commission,
27 for community choice aggregation customers and customers that
28 have entered into a direct transaction where applicable, as
29 determined by the commission. Once enrolled in the aggregated
30 entity, any ratepayer that chooses to opt out within 60 days or two
31 billing cycles of the date of enrollment may do so without penalty
32 and shall be entitled to receive default service pursuant to paragraph
33 (3) of subdivision (a). Customers that return to the electrical
34 corporation for procurement services shall be subject to the same
35 terms and conditions as are applicable to other returning direct
36 access customers from the same class, as determined by the
37 commission, as authorized by the commission pursuant to this
38 code or any other provision of law. Any reentry fees to be imposed
39 after the opt-out period specified in this paragraph, shall be
40 approved by the commission and shall reflect the cost of reentry.

1 The commission shall exclude any amounts previously determined
2 and paid pursuant to subdivisions (d), (e), and (f) from the cost of
3 reentry.

4 (12) Nothing in this section shall be construed as authorizing
5 any city or any community choice retail load aggregator to restrict
6 the ability of retail electricity customers to obtain or receive service
7 from any authorized electric service provider in a manner consistent
8 with law.

9 (13) (A) The community choice aggregator shall fully inform
10 participating customers at least twice within two calendar months,
11 or 60 days, in advance of the date of commencing automatic
12 enrollment. Notifications may occur concurrently with billing
13 cycles. Following enrollment, the aggregated entity shall fully
14 inform participating customers for not less than two consecutive
15 billing cycles. Notification may include, but is not limited to, direct
16 mailings to customers, or inserts in water, sewer, or other utility
17 bills. Any notification shall inform customers of both of the
18 following:

19 (i) That they are to be automatically enrolled and that the
20 customer has the right to opt out of the community choice
21 aggregator without penalty.

22 (ii) The terms and conditions of the services offered.

23 (B) The community choice aggregator may request the
24 commission to approve and order the electrical corporation to
25 provide the notification required in subparagraph (A). If the
26 commission orders the electrical corporation to send one or more
27 of the notifications required pursuant to subparagraph (A) in the
28 electrical corporation's normally scheduled monthly billing
29 process, the electrical corporation shall be entitled to recover from
30 the community choice aggregator all reasonable incremental costs
31 it incurs related to the notification or notifications. The electrical
32 corporation shall fully cooperate with the community choice
33 aggregator in determining the feasibility and costs associated with
34 using the electrical corporation's normally scheduled monthly
35 billing process to provide one or more of the notifications required
36 pursuant to subparagraph (A).

37 (C) Each notification shall also include a mechanism by which
38 a ratepayer may opt out of community choice aggregated service.
39 The opt out may take the form of a self-addressed return postcard
40 indicating the customer's election to remain with, or return to,

1 electrical energy service provided by the electrical corporation, or
2 another straightforward means by which the customer may elect
3 to derive electrical energy service through the electrical corporation
4 providing service in the area.

5 (14) The community choice aggregator shall register with the
6 commission, which may require additional information to ensure
7 compliance with basic consumer protection rules and other
8 procedural matters.

9 (15) Once the community choice aggregator's contract is signed,
10 the community choice aggregator shall notify the applicable
11 electrical corporation that community choice service will
12 commence within 30 days.

13 (16) Once notified of a community choice aggregator program,
14 the electrical corporation shall transfer all applicable accounts to
15 the new supplier within a 30-day period from the date of the close
16 of their normally scheduled monthly metering and billing process.

17 (17) An electrical corporation shall recover from the community
18 choice aggregator any costs reasonably attributable to the
19 community choice aggregator, as determined by the commission,
20 of implementing this section, including, but not limited to, all
21 business and information system changes, except for
22 transaction-based costs as described in this paragraph. Any costs
23 not reasonably attributable to a community choice aggregator shall
24 be recovered from ratepayers, as determined by the commission.
25 All reasonable transaction-based costs of notices, billing, metering,
26 collections, and customer communications or other services
27 provided to an aggregator or its customers shall be recovered from
28 the aggregator or its customers on terms and at rates to be approved
29 by the commission.

30 (18) At the request and expense of any community choice
31 aggregator, electrical corporations shall install, maintain and
32 calibrate metering devices at mutually agreeable locations within
33 or adjacent to the community aggregator's political boundaries.
34 The electrical corporation shall read the metering devices and
35 provide the data collected to the community aggregator at the
36 aggregator's expense. To the extent that the community aggregator
37 requests a metering location that would require alteration or
38 modification of a circuit, the electrical corporation shall only be
39 required to alter or modify a circuit if such alteration or
40 modification does not compromise the safety, reliability or

1 operational flexibility of the electrical corporation's facilities. All
2 costs incurred to modify circuits pursuant to this paragraph, shall
3 be born by the community aggregator.

4 (d) (1) It is the intent of the Legislature that each retail end-use
5 customer that has purchased power from an electrical corporation
6 on or after February 1, 2001, should bear a fair share of the
7 Department of Water Resources' electricity purchase costs, as well
8 as electricity purchase contract obligations incurred as of the
9 effective date of the act adding this section, that are recoverable
10 from electrical corporation customers in commission-approved
11 rates. It is further the intent of the Legislature to prevent any
12 shifting of recoverable costs between customers.

13 (2) The Legislature finds and declares that this subdivision is
14 consistent with the requirements of Division 27 (commencing with
15 Section 80000) of the Water Code and Section 360.5, and is
16 therefore declaratory of existing law.

17 (e) A retail end-use customer that purchases electricity from a
18 community choice aggregator pursuant to this section shall pay
19 both of the following:

20 (1) A charge equivalent to the charges that would otherwise be
21 imposed on the customer by the commission to recover bond
22 related costs pursuant to any agreement between the commission
23 and the Department of Water Resources pursuant to Section 80110
24 of the Water Code, which charge shall be payable until any
25 obligations of the Department of Water Resources pursuant to
26 Division 27 (commencing with Section 80000) of the Water Code
27 are fully paid or otherwise discharged.

28 (2) Any additional costs of the Department of Water Resources,
29 equal to the customer's proportionate share of the Department of
30 Water Resources' estimated net unavoidable electricity purchase
31 contract costs as determined by the commission, for the period
32 commencing with the customer's purchases of electricity from the
33 community choice aggregator, through the expiration of all then
34 existing electricity purchase contracts entered into by the
35 Department of Water Resources.

36 (f) A retail end-use customer purchasing electricity from a
37 community choice aggregator pursuant to this section shall
38 reimburse the electrical corporation that previously served the
39 customer for all of the following:

1 (1) The electrical corporation's unrecovered past
2 undercollections for electricity purchases, including any financing
3 costs, attributable to that customer, that the commission lawfully
4 determines may be recovered in rates.

5 (2) Any additional costs of the electrical corporation recoverable
6 in commission-approved rates, equal to the share of the electrical
7 corporation's estimated net unavoidable electricity purchase
8 contract costs attributable to the customer, as determined by the
9 commission, for the period commencing with the customer's
10 purchases of electricity from the community choice aggregator,
11 through the expiration of all then existing electricity purchase
12 contracts entered into by the electrical corporation.

13 (g) (1) Any charges imposed pursuant to subdivision (e) shall
14 be the property of the Department of Water Resources. Any charges
15 imposed pursuant to subdivision (f) shall be the property of the
16 electrical corporation. The commission shall establish mechanisms,
17 including agreements with, or orders with respect to, electrical
18 corporations necessary to ensure that charges payable pursuant to
19 this section shall be promptly remitted to the party entitled to
20 payment.

21 (2) Charges imposed pursuant to subdivisions (d), (e), and (f)
22 shall be nonbypassable.

23 (h) Notwithstanding Section 80110 of the Water Code, the
24 commission shall authorize community choice aggregation only
25 if the commission imposes a cost-recovery mechanism pursuant
26 to subdivisions (d), (e), (f), and (g). Except as provided by this
27 subdivision, this section shall not alter the suspension by the
28 commission of direct purchases of electricity from alternate
29 providers other than by community choice aggregators, pursuant
30 to Section 80110 of the Water Code.

31 (i) (1) The commission shall not authorize community choice
32 aggregation until it implements a cost-recovery mechanism,
33 consistent with subdivisions (d), (e), and (f), that is applicable to
34 customers that elected to purchase electricity from an alternate
35 provider between February 1, 2001, and January 1, 2003.

36 (2) The commission shall not authorize community choice
37 aggregation until it submits a report certifying compliance with
38 paragraph (1) to the Senate Energy, Utilities and Communications
39 Committee, or its successor, and the Assembly Committee on
40 Utilities and Commerce, or its successor.

1 (3) The commission shall not authorize community choice
2 aggregation until it has adopted rules for implementing community
3 choice aggregation.

4 (j) The commission shall prepare and submit to the Legislature,
5 on or before January 1, 2006, a report regarding the number of
6 community choices aggregations, the number of customers served
7 by community choice aggregations, third party suppliers to
8 community choice aggregations, compliance with this section, and
9 the overall effectiveness of community choice aggregation
10 programs.

11 *SEC. 10. Section 380 of the Public Utilities Code is amended*
12 *to read:*

13 380. (a) The commission, in consultation with the Independent
14 System Operator, shall establish resource adequacy requirements
15 for all load-serving entities.

16 (b) In establishing resource adequacy requirements, the
17 commission shall achieve all of the following objectives:

18 (1) Facilitate development of new generating capacity and
19 retention of existing generating capacity that is economic and
20 needed.

21 (2) Equitably allocate the cost of generating capacity and prevent
22 shifting of costs between customer classes.

23 (3) Minimize enforcement requirements and costs.

24 (c) Each load-serving entity shall maintain physical generating
25 capacity adequate to meet its load requirements, including, but not
26 limited to, peak demand and planning and operating reserves. The
27 generating capacity shall be deliverable to locations and at times
28 as may be necessary to provide reliable electric service.

29 (d) Each load-serving entity shall, at a minimum, meet the most
30 recent minimum planning reserve and reliability criteria approved
31 by the Board of Trustees of the Western Systems Coordinating
32 Council or the Western Electricity Coordinating Council.

33 (e) The commission shall implement and enforce the resource
34 adequacy requirements established in accordance with this section
35 in a nondiscriminatory manner. Each load-serving entity shall be
36 subject to the same requirements for resource adequacy and the
37 renewables portfolio standard program that are applicable to
38 electrical corporations pursuant to this section, or otherwise
39 required by law, or by order or decision of the commission. The

1 commission shall exercise its enforcement powers to ensure
2 compliance by all load-serving entities.

3 (f) The commission shall require sufficient information,
4 including, but not limited to, anticipated load, actual load, and
5 measures undertaken by a load-serving entity to ensure resource
6 adequacy, to be reported to enable the commission to determine
7 compliance with the resource adequacy requirements established
8 by the commission.

9 (g) An electrical corporation's costs of meeting resource
10 adequacy requirements, including, but not limited to, the costs
11 associated with system reliability and local area reliability, that
12 are determined to be reasonable by the commission, or are
13 otherwise recoverable under a procurement plan approved by the
14 commission pursuant to Section 454.5, shall be fully recoverable
15 from those customers on whose behalf the costs are incurred, as
16 determined by the commission, at the time the commitment to
17 incur the cost is made or thereafter, on a fully nonbypassable basis,
18 as determined by the commission. The commission shall exclude
19 any amounts authorized to be recovered pursuant to Section 366.2
20 when authorizing the amount of costs to be recovered from
21 customers of a community choice aggregator or from customers
22 that purchase electricity through a direct transaction pursuant to
23 this subdivision.

24 (h) The commission shall determine and authorize the most
25 efficient and equitable means for achieving all of the following:

- 26 (1) Meeting the objectives of this section.
27 (2) Ensuring that investment is made in new generating capacity.
28 (3) Ensuring that existing generating capacity that is economic
29 is retained.
30 (4) Ensuring that the cost of generating capacity is allocated
31 equitably.

32 (i) In making the determination pursuant to subdivision (h), the
33 commission may consider a centralized resource adequacy
34 mechanism among other options.

35 (j) For purposes of this section, "load-serving entity" means an
36 electrical corporation, electric service provider, or community
37 choice aggregator. "Load-serving entity" does not include any of
38 the following:

- 39 (1) A local publicly owned electric utility as defined in Section
40 9604.

1 (2) The State Water Resources Development System commonly
2 known as the State Water Project.

3 (3) Customer generation located on the customer's site or
4 providing electric service through arrangements authorized by
5 Section 218, if the customer generation, or the load it serves, meets
6 one of the following criteria:

7 (A) It takes standby service from the electrical corporation on
8 a commission-approved rate schedule that provides for adequate
9 backup planning and operating reserves for the standby customer
10 class.

11 (B) It is not physically interconnected to the electric transmission
12 or distribution grid, so that, if the customer generation fails, backup
13 electricity is not supplied from the electricity grid.

14 (C) There is physical assurance that the load served by the
15 customer generation will be curtailed concurrently and
16 commensurately with an outage of the customer generation.

17 *SEC. 11. Section 387 of the Public Utilities Code is amended*
18 *to read:*

19 387. (a) Each governing body of a local publicly owned electric
20 utility, ~~as defined in Section 9604,~~ shall be responsible for
21 implementing and enforcing a renewables portfolio standard that
22 recognizes the intent of the Legislature to encourage renewable
23 resources, while taking into consideration the effect of the standard
24 on rates, reliability, and financial resources and the goal of
25 environmental improvement.

26 (b) Each local publicly owned electric utility shall report, on an
27 annual basis, to its customers and to the State Energy Resources
28 Conservation and Development Commission, the following:

29 (1) Expenditures of public goods funds collected pursuant to
30 Section 385 for eligible renewable energy resource development.
31 Reports shall contain a description of programs, expenditures, and
32 expected or actual results.

33 (2) The resource mix used to serve its customers by fuel type.
34 Reports shall contain the contribution of each type of renewable
35 energy resource with separate categories for those fuels that are
36 eligible renewable energy resources as defined in Section 399.12,
37 except that the electricity is delivered to the local publicly owned
38 electric utility and not a retail seller. Electricity shall be reported
39 as having been delivered to the local publicly owned electric utility
40 from an eligible renewable energy resource when the electricity

1 would qualify for compliance with the renewables portfolio
2 standard if it were delivered to a retail seller.

3 (3) The utility's status in implementing a renewables portfolio
4 standard pursuant to subdivision (a) and the utility's progress
5 toward attaining the standard following implementation.

6 *SEC. 12. Section 387.5 of the Public Utilities Code is amended*
7 *to read:*

8 387.5. (a) In order to further the state goal of encouraging the
9 installation of 3,000 megawatts of photovoltaic solar energy in
10 California within 10 years, the governing body of a local publicly
11 owned electric utility, ~~as defined in subdivision (d) of Section~~
12 ~~9604~~, that sells electricity at retail, shall adopt, implement, and
13 finance a solar initiative program, funded in accordance with
14 subdivision (b), for the purpose of investing in, and encouraging
15 the increased installation of, residential and commercial solar
16 energy systems.

17 (b) On or before January 1, 2008, a local publicly owned electric
18 utility shall offer monetary incentives for the installation of solar
19 energy systems of at least two dollars and eighty cents (\$2.80) per
20 installed watt, or for the electricity produced by the solar energy
21 system, measured in kilowatthours, as determined by the governing
22 board of a local publicly owned electric utility, for photovoltaic
23 solar energy systems. The incentive level shall decline each year
24 thereafter at a rate of no less than an average of 7 percent per year.

25 (c) A local publicly owned electric utility shall initiate a public
26 proceeding to fund a solar energy program to adequately support
27 the goal of installing 3,000 megawatts of photovoltaic solar energy
28 in California. The proceeding shall determine what additional
29 funding, if any, is necessary to provide the incentives pursuant to
30 subdivision (b). The public proceeding shall be completed and the
31 comprehensive solar energy program established by January 1,
32 2008.

33 (d) The solar energy program of a local publicly owned electric
34 utility shall be consistent with all of the following:

35 (1) That a solar energy system receiving monetary incentives
36 comply with the eligibility criteria, design, installation, and
37 electrical output standards or incentives established by the State
38 Energy Resources Conservation and Development Commission
39 pursuant to Section 25782 of the Public Resources Code.

1 (2) That solar energy systems receiving monetary incentives
2 are intended primarily to offset part or all of the consumer's own
3 electricity demand.

4 (3) That all components in the solar energy system are new and
5 unused, and have not previously been placed in service in any
6 other location or for any other application.

7 (4) That the solar energy system has a warranty of not less than
8 10 years to protect against defects and undue degradation of
9 electrical generation output.

10 (5) That the solar energy system be located on the same premises
11 of the end-use consumer where the consumer's own electricity
12 demand is located.

13 (6) That the solar energy system be connected to the electric
14 utility's electrical distribution system within the state.

15 (7) That the solar energy system has meters or other devices in
16 place to monitor and measure the system's performance and the
17 quantity of electricity generated by the system.

18 (8) That the solar energy system be installed in conformance
19 with the manufacturer's specifications and in compliance with all
20 applicable electrical and building code standards.

21 (e) A local publicly owned electric utility shall, on an annual
22 basis beginning June 1, 2008, make available to its customers, to
23 the Legislature, and to the State Energy Resources Conservation
24 and Development Commission, information relating to the utility's
25 solar initiative program established pursuant to this section,
26 including, but not limited to, the number of photovoltaic solar
27 watts installed, the total number of photovoltaic systems installed,
28 the total number of applicants, the amount of incentives awarded,
29 and the contribution toward the program goals.

30 (f) In establishing the program required by this section, no
31 moneys shall be diverted from any existing programs for
32 low-income ratepayers, or from cost-effective energy efficiency
33 or demand response programs.

34 (g) The statewide expenditures for solar programs adopted,
35 implemented, and financed by local publicly owned electric utilities
36 shall be seven hundred eighty-four million dollars (\$784,000,000).
37 The expenditure level for each local publicly owned electric utility
38 shall be based on that utility's percentage of the total statewide
39 load served by all local publicly owned electric utilities.
40 Expenditures by a local publicly owned electric utility may be less

1 than the utility's cap amount, provided that funding is adequate to
2 provide the incentives required by subdivisions (a) and (b).

3 *SEC. 13. Section 394.5 of the Public Utilities Code is amended*
4 *to read:*

5 394.5. (a) Except for an electrical corporation as defined in
6 Section 218, or a local publicly owned electric utility ~~as defined~~
7 ~~in subdivision (d) of Section 9604~~ offering electrical service to
8 residential and small commercial customers within its service
9 territory, each electric service provider offering electrical service
10 to residential and small commercial customers shall, prior to the
11 commencement of service, provide the potential customer with a
12 written notice of the service describing the price, terms, and
13 conditions of the service. The notices shall include all of the
14 following:

15 (1) A clear description of the price, terms, and conditions of
16 service, including:

17 (A) The price of electricity expressed in a format which makes
18 it possible for residential and small commercial customers to
19 compare and select among similar products and services on a
20 standard basis. The commission shall adopt rules to implement
21 this subdivision. The commission shall require disclosure of the
22 total price of electricity on a cents-per-kilowatt-hour basis, including
23 the costs of all electric services and charges regulated by the
24 commission. The commission shall also require estimates of the
25 total monthly bill for the electric service at varying consumption
26 levels, including the costs of all electric services and charges
27 regulated by the commission. In determining these rules, the
28 commission may consider alternatives to the cent-per-kilowatt-hour
29 disclosure if other information would provide the customer with
30 sufficient information to compare among alternatives on a standard
31 basis.

32 (B) Separate disclosure of all recurring and nonrecurring charges
33 associated with the sale of electricity.

34 (C) If services other than electricity are offered, an itemization
35 of the services and the charge or charges associated with each.

36 (2) An explanation of the applicability and amount of the
37 competition transition charge, as determined pursuant to Sections
38 367 to 376, inclusive.

39 (3) A description of the potential customer's right to rescind
40 the contract without fee or penalty as described in Section 395.

1 (4) An explanation of the customer's financial obligations, as
2 well as the procedures regarding past due payments, discontinuance
3 of service, billing disputes, and service complaints.

4 (5) The electric service provider's registration number, if
5 applicable.

6 (6) The right to change service providers upon written notice,
7 including disclosure of any fees or penalties assessed by the
8 supplier for early termination of a contract.

9 (7) A description of the availability of low-income assistance
10 programs for qualified customers and how customers can apply
11 for these programs.

12 (b) The commission may assist electric service providers in
13 developing the notice. The commission may suggest inclusion of
14 additional information it deems necessary for the consumer
15 protection purposes of this section. On at least a semiannual basis,
16 electric service providers shall provide the commission with a copy
17 of the form of notice included in standard service plans made
18 available to residential and small commercial customers as
19 described in subdivision (a) of Section 392.1.

20 (c) Any electric service provider offering electric services who
21 declines to provide those services to a consumer shall, upon request
22 of the consumer, disclose to that consumer the reason for the denial
23 in writing within 30 days. At the time service is denied, the electric
24 service provider shall disclose to the consumer his or her right to
25 make this request. Consumers shall have at least 30 days from the
26 date service is denied to make the request.

27 *SEC. 14. Section 395.5 of the Public Utilities Code is amended*
28 *to read:*

29 395.5. (a) For purposes of this section, the following terms
30 have the following meanings:

31 (1) "Nonprofit charitable organization" means any charitable
32 organization described in Section 501(c)(3) of the federal Internal
33 Revenue Code that has as its primary purpose serving the needs
34 of the poor or elderly.

35 (2) "Electric commodity" means electricity used by the customer
36 or a supply of electricity available for use by the customer, and
37 does not include services associated with the transmission and
38 distribution of electricity.

39 (b) Notwithstanding Section 80110 of the Water Code, a
40 nonprofit charitable organization may acquire electric commodity

1 service through a direct transaction with an electric service provider
2 if electric commodity service is donated free of charge without
3 compensation.

4 (c) A nonprofit charitable organization that acquires donated
5 electric commodity service through a direct transaction pursuant
6 to this section shall be responsible for paying all of the following:

7 (1) Those charges and surcharges that would be imposed upon
8 a retail end-use customer of a community aggregator pursuant to
9 subdivisions (d), (e), (f), and (g) of Section 366.2.

10 (2) The transmission and distribution charges of an electrical
11 corporation or a local publicly owned electric utility, ~~as defined~~
12 ~~in Section 9604.~~

13 (3) A nonbypassable charge imposed pursuant to Article 7
14 (commencing with Section 381), Article 8 (commencing with
15 Section 385), or Article 15 (commencing with Section 399).

16 (4) Costs imposed upon a load-serving entity pursuant to Section
17 380.

18 (d) Existing direct access rules and all service obligations
19 otherwise applicable to electric service providers shall govern
20 transactions under this section.

21 (e) This section shall remain in effect only until January 1, 2010,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2010, deletes or extends that date.

24 *SEC. 15. The heading of Article 15 (commencing with Section*
25 *399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities*
26 *Code, as added by Section 4 of Chapter 1051 of the Statutes of*
27 *2000, is repealed.*

28
29 ~~Article 15. Reliable Electric Service Investments Act~~
30

31 *SEC. 16. Section 399.1 of the Public Utilities Code is repealed.*

32 ~~399.1. (a) As used in this article, the term “Energy~~
33 ~~Commission” means the State Energy Resources Conservation~~
34 ~~and Development Commission.~~

35 ~~(b) As used in this article, the term “local publicly owned electric~~
36 ~~utility” has the same meaning as set forth in subdivision (d) of~~
37 ~~Section 9604.~~

38 *SEC. 17. Section 399.12 of the Public Utilities Code is amended*
39 *to read:*

1 399.12. For purposes of this article, the following terms have
2 the following meanings:

3 (a) “Conduit hydroelectric facility” means a facility for the
4 generation of electricity that uses only the hydroelectric potential
5 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
6 manmade conduit that is operated to distribute water for a
7 beneficial use.

8 (b) “Delivered” and “delivery” have the same meaning as
9 provided in subdivision (a) of Section 25741 of the Public
10 Resources Code.

11 (c) “Eligible renewable energy resource” means an electric
12 generating facility that meets the definition of “in-state renewable
13 electricity generation facility” in Section 25741 of the Public
14 Resources Code, subject to the following limitations:

15 (1) (A) An existing small hydroelectric generation facility of
16 30 megawatts or less shall be eligible only if a retail seller owned
17 or procured the electricity from the facility as of December 31,
18 2005. A new hydroelectric facility is not an eligible renewable
19 energy resource if it will cause an adverse impact on instream
20 beneficial uses or cause a change in the volume or timing of
21 streamflow.

22 (B) Notwithstanding subparagraph (A), a conduit hydroelectric
23 facility of 30 megawatts or less that commenced operation before
24 January 1, 2006, is an eligible renewable energy resource. A
25 conduit hydroelectric facility of 30 megawatts or less that
26 commences operation after December 31, 2005, is an eligible
27 renewable energy resource so long as it does not cause an adverse
28 impact on instream beneficial uses or cause a change in the volume
29 or timing of streamflow.

30 (2) A facility engaged in the combustion of municipal solid
31 waste shall not be considered an eligible renewable resource unless
32 it is located in Stanislaus County and was operational prior to
33 September 26, 1996.

34 ~~(d) “Energy Commission” means the State Energy Resources~~
35 ~~Conservation and Development Commission.~~

36 ~~(e) “Local publicly owned electric utility” has the same meaning~~
37 ~~as provided in subdivision (d) of Section 9604.~~

38 ~~(f)~~

39 (d) “Procure” means that a retail seller receives delivered
40 electricity generated by an eligible renewable energy resource that

1 it owns or for which it has entered into an electricity purchase
2 agreement. Nothing in this article is intended to imply that the
3 purchase of electricity from third parties in a wholesale transaction
4 is the preferred method of fulfilling a retail seller's obligation to
5 comply with this article.

6 ~~(g)~~

7 (e) "Renewables portfolio standard" means the specified
8 percentage of electricity generated by eligible renewable energy
9 resources that a retail seller is required to procure pursuant to this
10 article.

11 ~~(h)~~

12 (f) (1) "Renewable energy credit" means a certificate of proof,
13 issued through the accounting system established by the Energy
14 Commission pursuant to Section 399.13, that one unit of electricity
15 was generated and delivered by an eligible renewable energy
16 resource.

17 (2) "Renewable energy credit" includes all renewable and
18 environmental attributes associated with the production of
19 electricity from the eligible renewable energy resource, except for
20 an emissions reduction credit issued pursuant to Section 40709 of
21 the Health and Safety Code and any credits or payments associated
22 with the reduction of solid waste and treatment benefits created
23 by the utilization of biomass or biogas fuels.

24 (3) No electricity generated by an eligible renewable energy
25 resource attributable to the use of nonrenewable fuels, beyond a
26 de minimus quantity, as determined by the Energy Commission,
27 shall result in the creation of a renewable energy credit.

28 ~~(i)~~

29 (g) "Retail seller" means an entity engaged in the retail sale of
30 electricity to end-use customers located within the state, including
31 any of the following:

32 (1) An electrical corporation, as defined in Section 218.

33 (2) A community choice aggregator. The commission shall
34 institute a rulemaking to determine the manner in which a
35 community choice aggregator will participate in the renewables
36 portfolio standard program subject to the same terms and conditions
37 applicable to an electrical corporation.

38 (3) An electric service provider, as defined in Section 218.3,
39 for all sales of electricity to customers beginning January 1, 2006.

40 The commission shall institute a rulemaking to determine the

1 manner in which electric service providers will participate in the
2 renewables portfolio standard program. The electric service
3 provider shall be subject to the same terms and conditions
4 applicable to an electrical corporation pursuant to this article.
5 Nothing in this paragraph shall impair a contract entered into
6 between an electric service provider and a retail customer prior to
7 the suspension of direct access by the commission pursuant to
8 Section 80110 of the Water Code.

9 (4) "Retail seller" does not include any of the following:

10 (A) A corporation or person employing cogeneration technology
11 or producing electricity consistent with subdivision (b) of Section
12 218.

13 (B) The Department of Water Resources acting in its capacity
14 pursuant to Division 27 (commencing with Section 80000) of the
15 Water Code.

16 (C) A local publicly owned electric utility.

17 *SEC. 18. Section 399.25 of the Public Utilities Code is amended*
18 *and renumbered to read:*

19 ~~399.25.~~

20 399.2.5. (a) Notwithstanding any other provision in Sections
21 1001 to 1013, inclusive, an application of an electrical corporation
22 for a certificate authorizing the construction of new transmission
23 facilities shall be deemed to be necessary to the provision of
24 electric service for purposes of any determination made under
25 Section 1003 if the commission finds that the new facility is
26 necessary to facilitate achievement of the renewable power goals
27 established in Article 16 (commencing with Section 399.11).

28 (b) With respect to a transmission facility described in
29 subdivision (a), the commission shall take all feasible actions to
30 ensure that the transmission rates established by the Federal Energy
31 Regulatory Commission are fully reflected in any retail rates
32 established by the commission. These actions shall include, but
33 are not limited to:

34 (1) Making findings, where supported by an evidentiary record,
35 that those transmission facilities provide benefit to the transmission
36 network and are necessary to facilitate the achievement of the
37 renewables portfolio standard established in Article 16
38 (commencing with Section 399.11).

39 (2) Directing the utility to which the generator will be
40 interconnected, where the direction is not preempted by federal

1 law, to seek the recovery through general transmission rates of the
2 costs associated with the transmission facilities.

3 (3) Asserting the positions described in paragraphs (1) and (2)
4 to the Federal Energy Regulatory Commission in appropriate
5 proceedings.

6 (4) Allowing recovery in retail rates of any increase in
7 transmission costs incurred by an electrical corporation resulting
8 from the construction of the transmission facilities that are not
9 approved for recovery in transmission rates by the Federal Energy
10 Regulatory Commission after the commission determines that the
11 costs were prudently incurred in accordance with subdivision (a)
12 of Section 454.

13 *SEC. 19. The heading of Article 5 (commencing with Section*
14 *445) of Chapter 2.5 of Part 1 of Division 1 of the Public Utilities*
15 *Code is repealed.*

16
17 ~~Article 5. Collection and Disposition of Fees for Renewable~~
18 ~~Energy Technologies~~
19

20 *SEC. 20. Section 701.8 of the Public Utilities Code is amended*
21 *to read:*

22 701.8. (a) To ensure that ~~the commission regulated electric~~
23 ~~utilities~~ *electrical corporations* do not operate their transmission
24 and distribution monopolies in a manner that impedes the ability
25 of the San Francisco Bay Area Rapid Transit District (BART
26 District) to reduce its electricity cost through the purchase and
27 delivery of preference power, electrical corporations shall meet
28 the requirements of this section.

29 (b) Any ~~electric utility regulated by the commission~~ *electrical*
30 *corporation* that owns and operates transmission and distribution
31 facilities that deliver electricity at one or more locations to the
32 BART District's system shall, upon request by the BART District,
33 and without discrimination or delay, use the same facilities to
34 deliver preference power purchased from a federal power marketing
35 agency or its successor, or electricity purchased from a local
36 publicly owned electric utility, ~~as defined in Section 9604.~~

37 (c) Where the BART District purchases ~~electric power~~ *electricity*
38 at more than one location, at any voltage, from an electric utility
39 under tariffs regulated by the commission, the utility shall bill the
40 BART District for usage as though all the electricity purchased at

1 transmission level voltages were metered by a single meter at one
2 location and all the electricity purchased at subtransmission
3 voltages were metered by a single meter at one location, provided
4 that any billing for demand charges would be based on the
5 coincident demand of transmission and distribution metering.

6 (d) If, on or after January 1, 1996, the BART District leases or
7 has agreed to lease, as special facilities, utility plants for the
8 purpose of receiving power at transmission level voltages, an
9 ~~electric utility regulated by the commission~~ *electrical corporation*
10 may not terminate the lease without concurrence from the BART
11 District.

12 (e) When the BART District elects to have electricity delivered
13 pursuant to subdivision (b), neither Sections 365 and 366, and any
14 commission regulations, orders, or tariffs, that implement direct
15 transactions, are applicable, nor is the BART District an electricity
16 supplier. Neither the commission, nor any ~~electric utility~~ *electrical*
17 *corporation* that delivers the federal power or electricity purchased
18 from a local publicly owned electric utility to the BART District,
19 shall require that an electricity supplier be designated as a condition
20 of the delivery of that power.

21 (f) The BART District may elect to obtain ~~electric power~~
22 *electricity* from the following multiple sources at the same time:

23 (1) ~~Electric power~~ *Electricity* delivered pursuant to subdivision
24 (b).

25 (2) ~~Electric power~~ *Electricity* supplied by one or more direct
26 transactions.

27 (3) ~~Electric power~~ *Electricity* from any ~~electric utility regulated~~
28 ~~by the commission~~ *electrical corporation* that owns and operates
29 transmission and distribution facilities that deliver electricity at
30 one or more locations to the BART District's system.

31 *SEC. 21. Section 761.3 of the Public Utilities Code is amended*
32 *to read:*

33 761.3. (a) Notwithstanding subdivision (g) of Section 216 and
34 ~~subdivisions (c) and (d)~~ *subdivision (c)* of Section ~~228.5~~ *218.5*,
35 the commission shall implement and enforce standards ~~adopted~~
36 ~~pursuant to subdivision (b)~~ for the maintenance and operation of
37 facilities for the generation of ~~electric energy~~ *electricity* owned by
38 an electrical corporation or located in the state to ensure their
39 reliable operation. The commission shall enforce the protocols for

1 the scheduling of powerplant outages of the Independent System
2 Operator.

3 ~~(b) (1) The commission and the Independent System Operator~~
4 ~~shall jointly establish the California Electricity Generation~~
5 ~~Facilities Standards Committee. The committee shall consist of~~
6 ~~three members, one a member of the commission appointed by~~
7 ~~the commission, one a member of the Independent System Operator~~
8 ~~board appointed by that board, and one individual with expertise~~
9 ~~regarding electric generation facilities and jointly appointed by~~
10 ~~the commission and the Independent System Operator board. The~~
11 ~~committee, within 90 days of the effective date of this section and~~
12 ~~after providing notice and opportunity for public comment, shall~~
13 ~~adopt, and may thereafter revise, standards for the maintenance~~
14 ~~and operation of facilities for the generation of located in the state.~~
15 ~~The standards shall be consistent with subdivision (d) of this~~
16 ~~section.~~

17 ~~(2) The committee shall be supported by a reasonable amount~~
18 ~~of staff time, which shall be provided proportionally by the~~
19 ~~agencies represented on the committee.~~

20 ~~(3) This subdivision shall be operative only until January 1,~~
21 ~~2005.~~

22 ~~(e)–~~
23 ~~(b) Nothing in this section authorizes the commission to~~
24 ~~establish rates for wholesale sales in interstate commerce from~~
25 ~~those facilities, or to approve the sale or transfer of control of~~
26 ~~facilities if an exempt those facilities, or to approve the sale or~~
27 ~~transfer of control of facilities that have been certified as exempt~~
28 ~~wholesale generators by the Federal Energy Regulatory~~
29 ~~Commission pursuant to Section 79z-5a(1) of Title 15 of the United~~
30 ~~States Code, as defined in the Public Utility Holding Company~~
31 ~~Act of 2005 (42 U.S.C. Sec. 16451(6)).~~

32 ~~(d)–~~
33 ~~(c) (1) (A) Except as otherwise provided in this subdivision,~~
34 ~~this section shall not apply to nuclear powered generating facilities~~
35 ~~that are federally regulated and subject to standards developed by~~
36 ~~the Nuclear Regulatory Commission, and that participate as~~
37 ~~members of the Institute of Nuclear Power Operations.~~

38 ~~(B) The owner or operator of a nuclear powered generating~~
39 ~~facility shall file with the Oversight Board and the commission an~~
40 ~~annual schedule of maintenance, including repairs and upgrades,~~

1 updated quarterly, for each generating facility. The owner or
2 operator of a nuclear powered generating facility shall make good
3 faith efforts to conduct its maintenance in compliance with its filed
4 plan and shall report to the Oversight Board and the Independent
5 System Operator any significant variations from its filed plan.

6 (C) The owner or operator of a nuclear powered generating
7 facility shall report on a monthly basis to the Oversight Board and
8 the commission all actual planned and unplanned outages of each
9 facility during the preceding month. The owner or operator of a
10 nuclear powered generating facility shall report on a daily basis
11 to the Oversight Board and the Independent System Operator the
12 daily operational status and availability of each facility.

13 (2) (A) Except as otherwise provided in this subdivision, this
14 section shall not apply to a qualifying small power production
15 facility or a qualifying cogeneration facility within the meaning
16 of Sections 201 and 210 of Title 11 of the federal Public Utility
17 Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18),
18 and 824a-3), and the regulations adopted pursuant to those sections
19 by the Federal Energy Regulatory Commission (18 C.F.R. Secs.
20 292.101 to 292.602, inclusive), nor shall this section apply to other
21 generation units installed, operated, and maintained at a customer
22 site, exclusively to serve that customer's load.

23 (B) An electrical corporation that has a contract with a qualifying
24 small power production facility, or a qualifying cogeneration
25 facility, with a name plate rating of 10 megawatts or greater, shall
26 report to the Oversight Board and the commission maintenance
27 schedules for each facility, including all actual planned and
28 unplanned outages of the facility and the daily operational status
29 and availability of the facility. Each facility with a name plate
30 rating of ten megawatts or greater shall be responsible for directly
31 reporting to the Oversight Board and the Independent System
32 Operator maintenance schedules for each facility, including all
33 actual planned and unplanned outages of the facility and the daily
34 operational status and availability of the facility, if that information
35 is not provided to the electrical corporation pursuant to a contract.

36 ~~(e) In developing the standards pursuant to subdivision (b), the~~
37 ~~committee shall take into consideration generation facilities~~
38 ~~scheduled for retirement, valid warranties on generation facilities,~~
39 ~~and the operational authority of the Independent System Operator~~
40 ~~as prescribed in the standard Participating Generator Agreement~~

1 and applicable sections of the Federal Energy Regulatory
2 Commission's approved Independent System Operator tariff.

3 ~~(f)~~

4 (d) Nothing in this section shall result in the modification, delay,
5 or abrogation of any deadline, standard, rule, or regulation adopted
6 by a federal, state, or local agency for the purposes of protecting
7 public health or the environment, including, but not limited to, any
8 requirements imposed by the State Air Resources Board or by an
9 air pollution control district or an air quality management district
10 pursuant to Division 26 (commencing with Section 39000) of the
11 Health and Safety Code. The Independent System Operator shall
12 consult with the State Air Resources Board and the appropriate
13 local air pollution control districts and air quality management
14 districts to coordinate scheduled outages to provide for compliance
15 with those retrofits.

16 ~~(g)~~

17 (e) The Independent System Operator shall maintain records of
18 generation facility outages and shall provide those records to the
19 Oversight Board and the commission on a daily basis. Each entity
20 that owns or operates an electric generating unit in California with
21 a rated maximum capacity of 10 megawatts or greater, shall provide
22 a monthly report to the Independent System Operator that identifies
23 any periods during the preceding month when the unit was
24 unavailable to produce electricity or was available only at reduced
25 capacity. The report shall identify the reasons for any such
26 unscheduled unavailability or reduced capacity. The Independent
27 System Operator shall immediately transmit the information to the
28 Oversight Board and the commission.

29 ~~(h)~~

30 (f) This section does not apply to any of the following:

31 (1) Facilities owned by a local publicly owned electric utility
32 as defined in subdivision (d) of Section 9604.

33 (2) Any public agency that may generate electricity incidental
34 to the provision of water or wastewater treatment.

35 (3) Facilities owned by a city and county operating as a public
36 utility, furnishing electric service as provided in Section 10001.

37 *SEC. 22. Section 848 of the Public Utilities Code is amended*
38 *to read:*

39 848. For the purposes of this article, the following terms shall
40 have the following meanings:

1 (a) “Consumer” means any individual, governmental body,
2 trust, business entity or nonprofit organization which consumes
3 electricity that has been transmitted or distributed by means of
4 electric transmission or distribution facilities, whether those electric
5 transmission or distribution facilities are owned by the consumer,
6 the recovery corporation, or any other party.

7 (b) “Financing entity” means the recovery corporation or any
8 subsidiary or affiliate of the recovery corporation that is authorized
9 by the commission to issue recovery bonds or acquire recovery
10 property, or both.

11 (c) “Financing order” means an order of the commission adopted
12 in accordance with this article, which shall include, without
13 limitation, a procedure to require the expeditious approval by the
14 commission of periodic adjustments to fixed recovery amounts
15 and to any associated fixed recovery tax amounts included in that
16 financing order to ensure recovery of all recovery costs and the
17 costs associated with the proposed recovery, financing, or
18 refinancing thereof, including the costs of servicing and retiring
19 the recovery bonds contemplated by the financing order.

20 (d) “Fixed recovery amounts” means those nonbypassable rates
21 and other charges, including, but not limited to, distribution,
22 connection, disconnection, and termination rates and charges, that
23 are authorized by the commission in a financing order to recover
24 (1) recovery costs specified in the financing order, and (2) the costs
25 of recovering, financing, or refinancing those recovery costs
26 through a plan approved by the commission in the financing order,
27 including the costs of servicing and retiring recovery bonds.

28 (e) “Fixed recovery tax amounts” means those nonbypassable
29 rates and other charges, including, but not limited to, distribution,
30 connection, disconnection, and termination rates and charges, that
31 are needed to recover federal and State of California income and
32 franchise taxes associated with fixed recovery amounts authorized
33 by the commission in the financing order and that are not financed
34 from proceeds of recovery bonds.

35 ~~(f) “Local publicly owned electric utility” means a local publicly~~
36 ~~owned electric utility as defined in Section 9604.~~

37 ~~(g)–~~

38 (f) “Recovery bonds” means bonds, notes, certificates of
39 participation or beneficial interest, or other evidences of
40 indebtedness or ownership, issued pursuant to an executed

1 indenture or other agreement of a financing entity, the proceeds
2 of which are used, directly or indirectly, to recover, finance, or
3 refinance recovery costs, and that are directly or indirectly secured
4 by, or payable from, recovery property.

5 ~~(h)–~~

6 (g) “Recovery corporation” means Pacific Gas and Electric
7 Company, the electrical corporation described in the commission’s
8 Decision No. 03-12-035.

9 ~~(i)–~~

10 (h) “Recovery costs” means (1) the unamortized balance of the
11 regulatory asset arising and existing pursuant to the commission’s
12 Decision No. 03-12-035, (2) federal and State of California income
13 and franchise taxes associated with recovery of the unamortized
14 balance of that regulatory asset, (3) costs of issuing recovery bonds,
15 and (4) professional fees, consultant fees, redemption premiums,
16 tender premiums and other costs incurred by the recovery
17 corporation in using proceeds of recovery bonds to acquire
18 outstanding securities of the recovery corporation.

19 ~~(j)–~~

20 (i) (1) “Recovery property” means the property right created
21 pursuant to this article, including, without limitation, the right,
22 title, and interest of the recovery corporation or its transferee:

23 (A) In and to the tariff established pursuant to a financing order,
24 as adjusted from time to time in accordance with Section 848.1
25 and the financing order.

26 (B) To be paid the amount that is determined in a financing
27 order to be the amount that the recovery corporation or its
28 transferee is lawfully entitled to receive pursuant to the provisions
29 of this article and the proceeds thereof, and in and to all revenues,
30 collections, claims, payments, money, or proceeds of or arising
31 from the tariff or constituting fixed recovery amounts that are the
32 subject of a financing order including those nonbypassable rates
33 and other charges referred to in subdivision (d).

34 (C) In and to all rights to obtain adjustments to the tariff relating
35 to fixed recovery amounts pursuant to the terms of Section 848.1
36 and the financing order.

37 (2) “Recovery property” shall not include the right to be paid
38 fixed recovery tax amounts.

39 (3) “Recovery property” shall constitute a current property right
40 notwithstanding the fact that the value of the property right will

1 depend on consumers using electricity or, in those instances where
2 consumers are customers of the recovery corporation, the recovery
3 corporation performing certain services.

4 ~~(k)–~~

5 (j) “Service territory” means the geographical area that the
6 recovery corporation provided with electric distribution service as
7 of December 19, 2003.

8 *SEC. 23. Section 2774.5 of the Public Utilities Code is amended*
9 *to read:*

10 2774.5. An electrical corporation or local publicly owned
11 electric utility, as defined in subdivision (d) of Section 9604, shall
12 immediately notify the Commissioner of the California Highway
13 Patrol, the Office of Emergency Services, and the sheriff and any
14 affected chief of police of the specific area within their respective
15 law enforcement jurisdictions that will sustain a planned loss of
16 power as soon as the planned loss becomes known as to when and
17 where that power loss will occur. The notification shall include
18 common geographical boundaries, grid or block numbers of the
19 affected area, and the next anticipated power loss area designated
20 by the electrical corporation or public entity during rotating
21 blackouts.

22 *SEC. 24. Section 2827 of the Public Utilities Code is amended*
23 *to read:*

24 2827. (a) The Legislature finds and declares that a program
25 to provide net energy metering, *co-energy metering*, and *wind*
26 *energy co-metering* for eligible customer-generators is one way
27 to encourage substantial private investment in renewable energy
28 resources, stimulate in-state economic growth, reduce demand for
29 electricity during peak consumption periods, help stabilize
30 California’s energy supply infrastructure, enhance the continued
31 diversification of California’s energy resource mix, and reduce
32 interconnection and administrative costs for electricity suppliers.

33 (b) As used in this section, the following definitions apply terms
34 have the following meanings:

35 ~~(1) “Electric service provider”~~

36 (1) “Co-energy metering” means a program that is the same
37 in all other respects as a net energy metering program, except that
38 the local publicly owned electric utility has elected to apply a
39 generation-to-generation energy and time-of-use credit formula
40 as provided in subdivision (i).

1 (2) “*Electrical cooperative*” means an electrical cooperative
2 as defined in Section 2776.

3 (3) “*Electric distribution utility or cooperative*” means an
4 electrical corporation, ~~as defined in Section 218~~; a local publicly
5 owned electric utility, ~~as defined in Section 9604~~; or an electrical
6 cooperative, ~~as defined in Section 2776~~; or any other entity, *except*
7 *an electric service provider*; that offers electrical service. This
8 section shall not apply to a local publicly owned electric utility;
9 ~~as defined in Section 9604 of the Public Utilities Code~~; that serves
10 more than 750,000 customers and that also conveys water to its
11 customers.

12 ~~(2)~~
13 (4) “Eligible customer-generator” means a residential, small
14 commercial customer as defined in subdivision (h) of Section 331,
15 commercial, industrial, or agricultural customer of an ~~electric~~
16 ~~service provider~~ *electricity distribution utility or cooperative*, who
17 uses a solar or a wind turbine electrical generating facility, or a
18 hybrid system of both, with a capacity of not more than one
19 megawatt that is located on the customer’s owned, leased, or rented
20 premises, is interconnected and operates in parallel with the electric
21 grid, and is intended primarily to offset part or all of the customer’s
22 own electrical requirements.

23 ~~(3)~~
24 (5) “Net energy metering” means measuring the difference
25 between the electricity supplied through the electric grid and the
26 electricity generated by an eligible customer-generator and fed
27 back to the electric grid over a 12-month period as described in
28 subdivision (h). ~~Net energy metering shall be accomplished using~~
29 ~~a single meter capable of registering the flow of electricity in two~~
30 ~~directions. An additional meter or meters to monitor the flow of~~
31 ~~electricity in each direction may be installed with the consent of~~
32 ~~the customer-generator, at the expense of the electric service~~
33 ~~provider, and the additional metering shall be used only to provide~~
34 ~~the information necessary to accurately bill or credit the~~
35 ~~customer-generator pursuant to subdivision (h), or to collect solar~~
36 ~~or wind electric generating system performance information for~~
37 ~~research purposes. If the existing electrical meter of an eligible~~
38 ~~customer-generator is not capable of measuring the flow of~~
39 ~~electricity in two directions, the customer-generator shall be~~
40 ~~responsible for all expenses involved in purchasing and installing~~

1 a meter that is able to measure electricity flow in two directions.
2 If an additional meter or meters are installed, the net energy
3 metering calculation shall yield a result identical to that of a single
4 meter. An eligible customer-generator who already owns an
5 existing solar or wind turbine electrical generating facility, or a
6 hybrid system of both, is eligible to receive net energy metering
7 service in accordance with this section.

8 (6) “*Ratemaking authority*” means, for an electrical
9 corporation, electrical cooperative, or electric service provider,
10 the commission, and for a local publicly owned electric utility, the
11 local elected body responsible for setting the rates of the local
12 publicly owned utility.

13 ~~(4)–~~

14 (7) “*Wind energy co-metering*” means any wind energy project
15 greater than 50 kilowatts, but not exceeding one megawatt, where
16 the difference between the electricity supplied through the electric
17 grid and the electricity generated by an eligible customer-generator
18 and fed back to the electric grid over a 12-month period is as
19 described in subdivision (h). Wind energy co-metering shall be
20 accomplished pursuant to Section 2827.8.

21 ~~(5) “Co-energy metering” means a program that is the same in~~
22 ~~all other respects as a net energy metering program, except that~~
23 ~~the local publicly owned electric utility, as defined in Section 9604,~~
24 ~~has elected to apply a generation-to-generation energy and~~
25 ~~time-of-use credit formula as provided in subdivision (i).~~

26 ~~(6) “Ratemaking authority” means, for an electrical corporation~~
27 ~~as defined in Section 218, or an electrical cooperative as defined~~
28 ~~in Section 2776, the commission, and for a local publicly owned~~
29 ~~electric utility as defined in Section 9604, the local elected body~~
30 ~~responsible for regulating the rates of the local publicly owned~~
31 ~~utility.~~

32 (c) (1) Every electric service provider *electricity distribution*
33 *utility or cooperative* shall develop a standard contract or tariff
34 providing for net energy metering, and shall make this *standard*
35 *contract or tariff* available to eligible customer-generators, upon
36 request, on a first-come-first-served basis until the time that the
37 total rated generating capacity used by eligible customer-generators
38 exceeds 2.5 percent of the electric service provider’s *electricity*
39 *distribution utility or cooperative’s* aggregate customer peak
40 demand. *Net energy metering shall be accomplished using a single*

1 meter capable of registering the flow of electricity in two
2 directions. An additional meter or meters to monitor the flow of
3 electricity in each direction may be installed with the consent of
4 the customer-generator, at the expense of the electricity distribution
5 utility or cooperative, and the additional metering shall be used
6 only to provide the information necessary to accurately bill or
7 credit the customer-generator pursuant to subdivision (h), or to
8 collect solar or wind electric generating system performance
9 information for research purposes. If the existing electrical meter
10 of an eligible customer-generator is not capable of measuring the
11 flow of electricity in two directions, the customer-generator shall
12 be responsible for all expenses involved in purchasing and
13 installing a meter that is able to measure electricity flow in two
14 directions. If an additional meter or meters are installed, the net
15 energy metering calculation shall yield a result identical to that
16 of a single meter.

17 (2) (A) On an annual basis, beginning in 2003, every electric
18 service provider electricity distribution utility or cooperative shall
19 make available to the ratemaking authority information on the total
20 rated generating capacity used by eligible customer-generators
21 that are customers of that provider in the provider's service area.
22 For those electric service providers who are operating pursuant to
23 Section 394, they

24 (B) An electric service provider operating pursuant to Section
25 394 shall make available to the ratemaking authority the
26 information required by this paragraph for each eligible
27 customer-generator that is their customer for each service area of
28 an electric corporation, local publicly owned electric utility, or
29 electrical cooperative, in which the customer has net energy
30 metering. The

31 (C) The ratemaking authority shall develop a process for making
32 the information required by this paragraph available to energy
33 service providers electricity distribution utilities and cooperatives,
34 and for using that information to determine when, pursuant to
35 paragraph paragraphs (1) and (3), a service provider an electricity
36 distribution utility or cooperative is not obligated to provide net
37 energy metering to additional customer-generators in its service
38 area.

39 (3) Notwithstanding paragraph (1), an electric service provider
40 An electricity distribution utility or cooperative is not obligated

1 to provide net energy metering to additional customer-generators
2 in its service area when the combined total peak demand of all
3 customer-generators served by all the ~~electric service providers~~
4 *electricity distribution utilities or cooperatives* in that service area
5 furnishing net energy metering to eligible customer-generators
6 exceeds 2.5 percent of the aggregate customer peak demand of
7 those ~~electric service providers~~ *electricity distribution utilities or*
8 *cooperatives*.

9 (4) By January 1, 2010, the commission, in consultation with
10 the ~~State Energy Resources Conservation and Development~~
11 Commission, shall submit a report to the Governor and the
12 Legislature on the costs and benefits of net energy metering, wind
13 energy co-metering, and co-energy metering to participating
14 customers and nonparticipating customers and with options to
15 replace the economic costs and benefits of net energy metering,
16 wind energy co-metering, and co-energy metering with a
17 mechanism that more equitably balances the interests of
18 participating and nonparticipating customers, and that incorporates
19 the findings of the report on economic and environmental costs
20 and benefits of net metering required by subdivision (n).

21 (d) ~~Electric service providers~~ *Every electricity distribution utility*
22 *or cooperative* shall make all necessary forms and contracts for
23 net *energy* metering service available for download from the
24 Internet.

25 (e) (1) ~~Every electric service provider~~ *electricity distribution*
26 *utility or cooperative* shall ensure that requests for establishment
27 of net energy metering are processed in a time period not exceeding
28 that for similarly situated customers requesting new electric service,
29 but not to exceed 30 working days from the date ~~the electric service~~
30 ~~provider~~ *it* receives a completed application form for net *energy*
31 metering service, including a signed interconnection agreement
32 from an eligible customer-generator and the electric inspection
33 clearance from the governmental authority having jurisdiction. ~~If~~
34 ~~an electric service provider is unable to process the request within~~
35 ~~the allowable timeframe, the electric service provider shall notify~~
36 ~~both the customer-generator and the ratemaking authority of the~~
37 ~~reason for its inability to process the request and the expected~~
38 ~~completion date.~~

39 (2) ~~Electric service providers~~ *Every electricity distribution utility*
40 *or cooperative* shall ensure that requests for an interconnection

1 agreement from an eligible customer-generator are processed in a
2 time period not to exceed 30 working days from the date ~~the~~
3 ~~electric service provider~~ it receives a completed application form
4 from the eligible customer-generator for an interconnection
5 agreement. ~~If an electric service provider is unable to process the~~

6 *(3) If an electricity distribution utility or cooperative is unable*
7 *to process a request within the allowable timeframe, the electric*
8 *service provider pursuant to paragraph (1) or (2), it shall notify*
9 *the eligible customer-generator and the ratemaking authority of*
10 *the reason for its inability to process the request and the expected*
11 *completion date.*

12 (f) (1) If a customer participates in direct transactions pursuant
13 to paragraph (1) of subdivision (b) of Section 365 with an electric
14 ~~supplier service provider~~ that does not provide distribution service
15 for the direct transactions, ~~the service provider~~ *electricity*
16 *distribution utility or cooperative* that provides distribution service
17 for an eligible customer-generator is not obligated to provide net
18 energy metering to the customer.

19 (2) If a customer participates in direct transactions pursuant to
20 paragraph (1) of subdivision (b) of Section 365 with an electric
21 ~~supplier service provider~~, and the customer is an eligible
22 customer-generator, ~~the service provider~~ *electricity distribution*
23 *utility or cooperative* that provides distribution service for the
24 direct transactions may recover from the customer's electric service
25 provider the incremental costs of metering and billing service
26 related to net energy metering in an amount set by the ratemaking
27 authority.

28 (g) Except for the time-variant kilowatthour pricing portion of
29 any tariff adopted by the commission pursuant to paragraph (4) of
30 subdivision (a) of Section 2851, each net energy metering contract
31 or tariff shall be identical, with respect to rate structure, all retail
32 rate components, and any monthly charges, to the contract or tariff
33 to which the same customer would be assigned if the customer did
34 not use an eligible solar or wind electrical generating facility,
35 except that eligible customer-generators shall not be assessed
36 standby charges on the electrical generating capacity or the
37 kilowatthour production of an eligible solar or wind electrical
38 generating facility. The charges for all retail rate components for
39 eligible customer-generators shall be based exclusively on the
40 customer-generator's net kilowatthour consumption over a

1 12-month period, without regard to the customer-generator's choice
2 ~~of electric service provider as to whom it purchases electricity that~~
3 ~~is not self-generated~~. Any new or additional demand charge,
4 standby charge, customer charge, minimum monthly charge,
5 interconnection charge, or any other charge that would increase
6 an eligible customer-generator's costs beyond those of other
7 customers who are not *eligible* customer-generators in the rate
8 class to which the eligible customer-generator would otherwise
9 be assigned if the customer did not own, lease, rent, or otherwise
10 operate an eligible solar or wind electrical generating facility are
11 contrary to the intent of this section, and shall not form a part of
12 net energy metering contracts or tariffs.

13 (h) For eligible residential and small commercial
14 customer-generators, the net energy metering calculation shall be
15 made by measuring the difference between the electricity supplied
16 to the eligible customer-generator and the electricity generated by
17 the eligible customer-generator and fed back to the electric grid
18 over a 12-month period. The following rules shall apply to the
19 annualized net metering calculation:

20 (1) The eligible residential or small commercial
21 customer-generator shall, at the end of each 12-month period
22 following the date of final interconnection of the eligible
23 customer-generator's system with an ~~electric service provider~~
24 *electricity distribution utility or cooperative*, and at each
25 anniversary date thereafter, be billed for electricity used during
26 that 12-month period. The ~~electric service provider~~ *electricity*
27 *distribution utility or cooperative* shall determine if the eligible
28 residential or small commercial customer-generator was a net
29 consumer or a net producer of electricity during that period.

30 (2) At the end of each 12-month period, where the electricity
31 supplied during the period by the ~~electric service provider~~
32 *electricity distribution utility or cooperative* exceeds the electricity
33 generated by the eligible residential or small commercial
34 customer-generator during that same period, the eligible residential
35 or small commercial customer-generator is a net electricity
36 consumer and the ~~electric service provider~~ *electricity distribution*
37 *utility or cooperative* shall be owed compensation for the eligible
38 customer-generator's net kilowatthour consumption over that ~~same~~
39 12-month period. The compensation owed for the eligible

1 residential or small commercial customer-generator's consumption
2 shall be calculated as follows:

3 (A) For all eligible customer-generators taking service under
4 *contracts or tariffs* employing "baseline" and "over baseline" rates
5 *or charges*, any net monthly consumption of electricity shall be
6 calculated according to the terms of the contract or tariff to which
7 the same customer would be assigned to, or be eligible for, if the
8 customer was not an eligible customer-generator. If those same
9 customer-generators are net generators over a billing period, the
10 net kilowatthours generated shall be valued at the same price per
11 kilowatthour as the ~~electric service provider~~ *electricity distribution*
12 *utility or cooperative* would charge for the baseline quantity of
13 electricity during that billing period, and if the number of
14 kilowatthours generated exceeds the baseline quantity, the excess
15 shall be valued at the same price per kilowatthour as the ~~electric~~
16 ~~service provider~~ *electricity distribution utility or cooperative* would
17 charge for electricity over the baseline quantity during that billing
18 period.

19 (B) For all eligible customer-generators taking service under
20 *contracts or tariffs* employing "time of use" rates *or charges*, any
21 net monthly consumption of electricity shall be calculated
22 according to the terms of the contract or tariff to which the same
23 customer would be assigned to, or be eligible for, if the customer
24 was not an eligible customer-generator. When those same
25 customer-generators are net generators during any discrete time
26 of use period, the net kilowatthours produced shall be valued at
27 the same price per kilowatthour as the ~~electric service provider~~
28 *electricity distribution utility or cooperative* would charge for retail
29 kilowatthour sales during that same time of use period. If the
30 eligible customer-generator's time of use electrical meter is unable
31 to measure the flow of electricity in two directions, ~~paragraph (3)~~
32 ~~of subdivision (b)~~ *subparagraph (A) of paragraph (1) of*
33 *subdivision (c)* shall apply.

34 (C) For all *eligible* residential and small commercial
35 customer-generators and for each billing period, the net balance
36 of moneys owed to the ~~electric service provider~~ *electricity*
37 *distribution utility or cooperative* for net consumption of electricity
38 or credits owed to the *eligible* customer-generator for net generation
39 of electricity shall be carried forward as a monetary value until
40 the end of each 12-month period. For all *eligible* commercial,

1 industrial, and agricultural customer-generators, the net balance
2 of moneys owed shall be paid in accordance with the ~~electric~~
3 ~~service provider's~~ *electricity distribution utility or cooperative's*
4 normal billing cycle, except that if the *eligible* commercial,
5 industrial, or agricultural customer-generator is a net electricity
6 producer over a normal billing cycle, any excess kilowatthours
7 generated during the billing cycle shall be carried over to the
8 following billing period as a monetary value, calculated according
9 to the procedures set forth in this section, and appear as a credit
10 on the *eligible* customer-generator's account, until the end of the
11 annual period when paragraph (3) shall apply.

12 (3) At the end of each 12-month period, where the electricity
13 generated by the *eligible* customer-generator during the 12-month
14 period exceeds the electricity supplied by the ~~electric service~~
15 ~~provider~~ *electricity distribution utility or cooperative* during that
16 same period, the *eligible* customer-generator is a net electricity
17 producer and the ~~electric service provider~~ *electricity distribution*
18 *utility or cooperative* shall retain any excess kilowatthours
19 generated during the prior 12-month period. The *eligible*
20 customer-generator shall not be owed any compensation for those
21 excess kilowatthours unless the ~~electric service provider~~ *electricity*
22 *distribution utility or cooperative* enters into a purchase agreement
23 with the *eligible* customer-generator for those excess kilowatthours.

24 (4) The ~~electric service provider~~ *electricity distribution utility*
25 *or cooperative* shall provide every *eligible* residential or small
26 commercial customer-generator with net electricity consumption
27 information with each regular bill. That information shall include
28 the current monetary balance owed the ~~electric service provider~~
29 *electricity distribution utility or cooperative* for net electricity
30 consumed, *or the current amount of excess electricity produced,*
31 since the last 12-month period ended. Notwithstanding this
32 subdivision, an ~~electric service provider~~ *electricity distribution*
33 *utility or cooperative* shall permit that customer to pay monthly
34 for net energy consumed.

35 (5) If an *eligible* residential or small commercial
36 customer-generator terminates the customer relationship with the
37 ~~electric service provider~~, the ~~electric service provider~~ *electricity*
38 *distribution utility or cooperative*, the *electricity distribution utility*
39 *or cooperative* shall reconcile the *eligible* customer-generator's
40 consumption and production of electricity during any part of a

1 12-month period following the last reconciliation, according to
2 the requirements set forth in this subdivision, except that those
3 requirements shall apply only to the months since the most recent
4 12-month bill.

5 (6) If an electric service provider *or electricity distribution utility*
6 *or cooperative* providing net *energy* metering to a residential or
7 small commercial customer-generator ceases providing that
8 ~~electrical~~ *electric* service to that customer during any 12-month
9 period, and the customer-generator enters into a new net *energy*
10 metering contract or tariff with a new electric service provider *or*
11 *electricity distribution utility or cooperative*, the 12-month period,
12 with respect to that new electric service provider *or electricity*
13 *distribution utility or cooperative*, shall commence on the date on
14 which the new electric service provider *or electricity distribution*
15 *utility or cooperative* first supplies electric service to the
16 customer-generator.

17 (i) Notwithstanding any other provisions of this section, the
18 following provisions shall apply to an eligible customer-generator
19 with a capacity of more than 10 kilowatts, but not exceeding one
20 megawatt, that receives ~~electrical~~ *electric* service from a local
21 publicly owned electric utility, ~~as defined in Section 9604~~, that
22 has elected to utilize a co-energy metering program unless the
23 ~~electric service provider~~ *local publicly owned electric utility*
24 chooses to provide service for eligible customer-generators with
25 a capacity of more than 10 kilowatts in accordance with
26 subdivisions (g) and (h):

27 (1) The eligible customer-generator shall be required to utilize
28 a meter, or multiple meters, capable of separately measuring
29 electricity flow in both directions. All meters shall provide
30 “time-of-use” measurements of electricity flow, and the customer
31 shall take service on a time-of-use rate schedule. If the existing
32 meter of the eligible customer-generator is not a time-of-use meter
33 or is not capable of measuring total flow of energy in both
34 directions, the eligible customer-generator shall be responsible for
35 all expenses involved in purchasing and installing a meter that is
36 both time-of-use and able to measure total electricity flow in both
37 directions. This subdivision shall not restrict the ability of an
38 eligible customer-generator to utilize any economic incentives
39 provided by a government agency ~~or the electric service provider~~

1 *an electricity distribution utility or cooperative* to reduce its costs
2 for purchasing and installing a time-of-use meter.

3 (2) The consumption of electricity from the ~~electric service~~
4 ~~provider~~ *local publicly owned electric utility* shall result in a cost
5 to the eligible customer-generator to be priced in accordance with
6 the standard rate charged to the eligible customer-generator in
7 accordance with the rate structure to which the customer would
8 be assigned if the customer did not use an eligible solar or wind
9 electrical generating facility. The generation of electricity provided
10 to the ~~electric service provider~~ *local publicly owned electric utility*
11 shall result in a credit to the eligible customer-generator and shall
12 be priced in accordance with the generation component, established
13 under the applicable structure to which the customer would be
14 assigned if the customer did not use an eligible solar or wind
15 electrical generating facility.

16 (3) All costs and credits shall be shown on the eligible
17 customer-generator's bill for each billing period. In any months
18 in which the eligible customer-generator has been a net consumer
19 of electricity calculated on the basis of value determined pursuant
20 to paragraph (2), the customer-generator shall owe to the ~~electric~~
21 ~~service provider~~ *local publicly owned electric utility* the balance
22 of electricity costs and credits during that billing period. In any
23 billing period in which the eligible customer-generator has been
24 a net producer of electricity calculated on the basis of value
25 determined pursuant to paragraph (2), the ~~electric service provider~~
26 *local publicly owned electric utility* shall owe to the eligible
27 customer-generator the balance of electricity costs and credits
28 during that billing period. Any net credit to the eligible
29 customer-generator of electricity costs may be carried forward to
30 subsequent billing periods, provided that ~~an electric service~~
31 ~~provider~~ *a local publicly owned electric utility* may choose to carry
32 the credit over as a kilowatthour credit consistent with the
33 provisions of any applicable *contract or* tariff, including any
34 differences attributable to the time of generation of the electricity.
35 At the end of each 12-month period, the ~~electric service provider~~
36 *local publicly owned electric utility* may reduce any net credit due
37 to the eligible customer-generator to zero.

38 (j) A solar or wind turbine electrical generating system, or a
39 hybrid system of both, used by an eligible customer-generator shall
40 meet all applicable safety and performance standards established

1 by the National Electrical Code, the Institute of Electrical and
2 Electronics Engineers, and accredited testing laboratories ~~such as,~~
3 *including* Underwriters Laboratories and, where applicable, rules
4 of the ~~Public Utilities Commission~~ *commission* regarding safety
5 and reliability. A customer-generator whose solar or wind turbine
6 electrical generating system, or a hybrid system of both, meets
7 those standards and rules shall not be required to install additional
8 controls, perform or pay for additional tests, or purchase additional
9 liability insurance.

10 (k) If the commission determines that there are cost or revenue
11 obligations for an electric corporation, as defined in Section 218,
12 that may not be recovered from customer-generators acting
13 pursuant to this section, those obligations shall remain within the
14 customer class from which any shortfall occurred and may not be
15 shifted to any other customer class. ~~Net-metering and co-metering~~
16 *Net energy metering and co-energy metering* customers shall not
17 be exempt from the public ~~benefits charge~~ *goods charges imposed*
18 *pursuant to Article 7 (commencing with Section 381), Article 8*
19 *(commencing with Section 385), or Article 15 (commencing with*
20 *Section 399) of Chapter 2.3 of Part 1.* In its report to the
21 Legislature, the commission shall examine different methods to
22 ensure that the public ~~benefits charge remains a nonbypassable~~
23 *charge goods charges remain nonbypassable.*

24 (l) A net energy metering, co-energy metering, or wind energy
25 co-metering customer shall reimburse the Department of Water
26 Resources for all charges that would otherwise be imposed on the
27 customer by the commission to recover bond-related costs pursuant
28 to an agreement between the commission and the Department of
29 Water Resources pursuant to Section 80110 of the Water Code,
30 as well as the costs of the department equal to the share of the
31 department's estimated net unavoidable power purchase contract
32 costs attributable to the customer. The commission shall
33 incorporate the determination into an existing proceeding before
34 the commission, and shall ensure that the charges are
35 nonbypassable. Until the commission has made a determination
36 regarding the nonbypassable charges, net *energy* metering,
37 *co-energy metering, and wind energy co-metering* shall continue
38 under the same rules, procedures, terms, and conditions as were
39 applicable on December 31, 2002.

1 (m) In implementing the requirements of subdivisions (k) and
2 (l), a customer-generator shall not be required to replace its existing
3 meter except as set forth in ~~paragraph (3) of subdivision (b)~~
4 *subparagraph (A) of paragraph (1) of subdivision (c)*, nor shall
5 the ~~electric service provider~~ *electricity distribution utility or*
6 *cooperative* require additional measurement of usage beyond that
7 which is necessary for customers in the same rate class as the
8 eligible customer-generator.

9 ~~(n) On or before January 1, 2005, the commission shall submit~~
10 ~~a report to the Governor and the Legislature that assesses the~~
11 ~~economic and environmental costs and benefits of net metering to~~
12 ~~customer-generators, ratepayers, and utilities, including any~~
13 ~~beneficial and adverse effects on public benefit programs and~~
14 ~~special purpose surcharges. The report shall be prepared by an~~
15 ~~independent party under contract with the commission.~~

16 ~~(o)~~
17 (n) It is the intent of the Legislature that the Treasurer
18 incorporate net energy metering ~~and co-energy metering~~, *co-energy*
19 *metering, and wind energy co-metering* projects undertaken
20 pursuant to this section as sustainable building methods or
21 distributive energy technologies for purposes of evaluating
22 low-income housing projects.

23 SEC. 25. *Section 2852 of the Public Utilities Code is amended*
24 *to read:*

25 2852. (a) As used in this section, the following terms have the
26 following meanings:

27 (1) "California Solar Initiative" means the program providing
28 ratepayer funded incentives for eligible solar energy systems
29 adopted by the Public Utilities Commission in Decision 05-12-044
30 and Decision 06-01-024.

31 (2) "Low-income residential housing" means either of the
32 following:

33 (A) Residential housing financed with low-income housing tax
34 credits, tax-exempt mortgage revenue bonds, general obligation
35 bonds, or local, state, or federal loans or grants, and for which the
36 rents of the occupants who are lower income households, as defined
37 in Section 50079.5 of the Health and Safety Code, do not exceed
38 those prescribed by deed restrictions or regulatory agreements
39 pursuant to the terms of the financing or financial assistance.

1 (B) A residential complex in which at least 20 percent of the
2 total units are sold or rented to lower income households, as defined
3 in Section 50079.5 of the Health and Safety Code, and the housing
4 units targeted for lower income households are subject to a deed
5 restriction or affordability covenant with a public entity that ensures
6 that the units will be available at an affordable housing cost, as
7 defined in Section 50052.5 of the Health and Safety Code, or at
8 an affordable rent, as defined in Section 50053 of the Health and
9 Safety Code for a period of at least 30 years.

10 (3) “Solar energy system” means a solar energy device that has
11 the primary purpose of providing for the collection and distribution
12 of solar energy for the generation of electricity, that produces at
13 least one kilowatt, and ~~except for a solar energy device for a~~
14 ~~nonprofit building,~~ produces not more than five megawatts,
15 alternating current rated peak electricity, and that meets or exceeds
16 the eligibility criteria established by the commission or the State
17 Energy Resources Conservation and Development Commission.

18 (b) In establishing the California Solar Initiative, no moneys
19 shall be diverted from any existing programs for low-income
20 ratepayers, or from cost-effective energy efficiency or demand
21 response programs.

22 (c) (1) The commission shall ensure that not less than 10 percent
23 of the funds for the California Solar Initiative are utilized for the
24 installation of solar energy systems on low-income residential
25 housing. Notwithstanding any other law, the commission may
26 modify the monetary incentives made available pursuant to the
27 California Solar Initiative to accommodate the limited financial
28 resources of low-income residential housing.

29 (2) The commission may incorporate a revolving loan or loan
30 guarantee program into the California Solar Initiative for
31 low-income residential housing. All loans outstanding as of January
32 1, 2016, shall continue to be repaid consistent with the terms and
33 conditions of the program adopted and implemented by the
34 commission pursuant to this subdivision, until repaid in full.

35 (3) All moneys set aside for the purpose of funding the
36 installation of solar energy systems on low-income residential
37 housing that are unexpended and unencumbered on January 1,
38 2016, and all moneys thereafter repaid pursuant to paragraph (2),
39 except to the extent those moneys are encumbered pursuant to this
40 section, shall be utilized to augment existing cost-effective energy

1 efficiency measures in low-income residential housing that benefit
2 ratepayers.

3 *SEC. 26. Section 3302 of the Public Utilities Code is amended*
4 *to read:*

5 3302. As used in this division, unless the context otherwise
6 requires, the following terms have the following meanings:

7 (a) “Act” means the California Consumer Power and
8 Conservation Financing Authority Act.

9 (b) “Authority” means the California Consumer Power and
10 Conservation Financing Authority established pursuant to Section
11 3320 and any board, commission, department, or officer succeeding
12 to the functions thereof, or to whom the powers conferred upon
13 the authority by this division shall be given by law.

14 (c) “Board” means the Board of Directors of the California
15 Consumer Power and Conservation Financing Authority.

16 (d) “Bond purchase agreement” means a contractual agreement
17 executed between the authority and an underwriter or underwriters
18 and, where appropriate, a participating party, whereby the authority
19 agrees to sell bonds issued pursuant to this division.

20 (e) “Bonds” means bonds, including structured, senior, and
21 subordinated bonds or other securities; loans; notes, including
22 bond revenue or grant anticipation notes; certificates of
23 indebtedness; commercial paper; floating rate and variable maturity
24 securities; and any other evidences of indebtedness or ownership,
25 including certificates of participation or beneficial interest, asset
26 backed certificates, or lease-purchase or installment purchase
27 agreements, whether taxable or excludable from gross income for
28 state and federal income taxation purposes.

29 ~~(f) “Commission” means the Public Utilities Commission.~~

30 ~~(g)–~~

31 (f) “Cost,” as applied to a program, project or portion thereof
32 financed under this division, means all or any part of the cost of
33 construction, improvement, repair, reconstruction, renovation, and
34 acquisition of all lands, structures, improved or unimproved real
35 or personal property, rights, rights-of-way, franchises, licenses,
36 easements, and interests acquired or used for a project; the cost of
37 demolishing or removing or relocating any buildings or structures
38 on land so acquired, including the cost of acquiring any lands to
39 which the buildings or structures may be moved; the cost of all
40 machinery and equipment; financing charges; the costs of any

1 environmental mitigation; the costs of issuance of bonds or other
2 indebtedness; interest prior to, during, and for a period after,
3 completion of the project, as determined by the authority;
4 provisions for working capital; reserves for principal and interest;
5 reserves for reduction of costs for loans or other financial
6 assistance; reserves for maintenance, extension, enlargements,
7 additions, replacements, renovations, and improvements; and the
8 cost of architectural, engineering, financial, appraisal, and legal
9 services, plans, specifications, estimates, administrative expenses,
10 and other expenses necessary or incidental to determining the
11 feasibility of any project, enterprise, or program or incidental to
12 the completion or financing of any project or program.

13 ~~(h) “Electrical corporation” has the same meaning as that term~~
14 ~~is defined in Section 218.~~

15 ~~(i) “Energy Commission” means the State Energy Resources~~
16 ~~Conservation and Development Commission.~~

17 ~~(j)–~~

18 (g) “Enterprise” means a revenue-producing improvement,
19 building, system, plant, works, facilities, or undertaking used for
20 or useful for the generation or production of electric energy for
21 lighting, heating, and power for public or private uses. Enterprise
22 includes, but is not limited to, all parts of the enterprise, all
23 appurtenances to it, lands, easements, rights in land, water rights,
24 contract rights, franchises, buildings, structures, improvements,
25 equipment, and facilities appurtenant or relating to the enterprise.

26 ~~(k)–~~

27 (h) “Financial assistance” in connection with a project, enterprise
28 or program, includes, but is not limited to, any combination of
29 grants, loans, the proceeds of bonds issued by the authority,
30 insurance, guarantees or other credit enhancements or liquidity
31 facilities, and contributions of money, property, labor, or other
32 things of value, as may be approved by resolution of the board;
33 the purchase or retention of authority bonds, the bonds of a
34 participating party for their retention or for sale by the authority,
35 or the issuance of authority bonds or the bonds of a special purpose
36 trust used to fund the cost of a project or program for which a
37 participating party is directly or indirectly liable, including, but
38 not limited to, bonds, the security for which is provided in whole
39 or in part pursuant to the powers granted by this division; bonds
40 for which the authority has provided a guarantee or enhancement;

1 or any other type of assistance determined to be appropriate by
2 the authority.

3 ~~(h)~~

4 (i) “Fund” means the California Consumer Power and
5 Conservation Financing Authority Fund.

6 ~~(m)~~

7 (j) “Loan agreement” means a contractual agreement executed
8 between the authority and a participating party that provides that
9 the authority will loan funds to the participating party and that the
10 participating party will repay the principal and pay the interest and
11 redemption premium, if any, on the loan.

12 ~~(n) “Local publicly owned electric utility” has the same meaning~~
13 ~~as that term is defined in Section 9604.~~

14 ~~(o)~~

15 (k) “Participating party” means either of the following:

16 (1) Any person, company, corporation, partnership, firm,
17 federally recognized California Indian tribe, or other entity or
18 group of entities, whether organized for profit or not for profit,
19 engaged in business or operations within the state and that applies
20 for financial assistance from the authority for the purpose of
21 implementing a project or program in a manner prescribed by the
22 authority.

23 (2) Any subdivision of the state or local government, including,
24 but not limited to, departments, agencies, commissions, cities,
25 counties, nonprofit corporations, special districts, assessment
26 districts, and joint powers authorities within the state or any
27 combination of these subdivisions, that has, or proposes to acquire,
28 an interest in a project, or that operates or proposes to operate a
29 program under Section 3365, and that makes application to the
30 authority for financial assistance in a manner prescribed by the
31 authority.

32 ~~(p)~~

33 (l) “Program” means a program that provides financial
34 assistance, as provided in Article 6 (commencing with Section
35 3365).

36 ~~(q)~~

37 (m) “Project” means plants, facilities, equipment, appliances,
38 structures, expansions, and improvements within the state that
39 serve the purposes of this division as approved by the authority,
40 and all activities and expenses necessary to initiate and complete

1 those projects described in Article 5 (commencing with Section
2 3350) and Article 7 (commencing with Section 3368), of Chapter
3 3.

4 ~~(r)~~—

5 (n) “Revenues” means all receipts, purchase payments, loan
6 repayments, lease payments, rents, fees and charges, and all other
7 income or receipts derived by the authority from an enterprise, or
8 by the authority or a participating party from any other financing
9 arrangement undertaken by the authority or a participating party,
10 including, but not limited to, all receipts from a bond purchase
11 agreement, and any income or revenue derived from the investment
12 of any money in any fund or account of the authority or a
13 participating party.

14 ~~(s)~~—

15 (o) “State” means the State of California.

16 *SEC. 27. Section 7000 of the Public Utilities Code is amended*
17 *to read:*

18 7000. (a) For purposes of this chapter, a utility shall mean all
19 of the following:

20 (1) An electric corporation, ~~as defined in Section 218.~~

21 (2) A water corporation, ~~as defined in Section 241.~~

22 (3) A telephone corporation, ~~as defined in Section 234.~~

23 (4) A telecommunications carrier, as defined in Section 153 of
24 Title 47 of the United States Code.

25 (5) A gas corporation, ~~as defined in Section 222.~~

26 (6) A local publicly owned electric utility, ~~as defined in Section~~
27 ~~9604,~~ and a publicly owned gas utility.

28 (7) A special district that owns or operates utilities.

29 (b) This chapter shall also apply to the following entities:

30 (1) A cable television corporation, ~~as defined in Section 216.4.~~

31 (2) A cable operator, as defined in Section 522 of Title 47 of
32 the United States Code.

33 *SEC. 28. Section 8340 of the Public Utilities Code is amended*
34 *to read:*

35 8340. For purposes of this chapter, the following terms have
36 the following meanings:

37 (a) “Baseload generation” means electricity generation from a
38 powerplant that is designed and intended to provide electricity at
39 an annualized plant capacity factor of at least 60 percent.

(b) “Combined-cycle natural gas” with respect to a powerplant means the powerplant employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

~~(e) “Community choice aggregator” means a “community choice aggregator” as defined in Section 331.1.~~

~~(d) “Electrical corporation” means an “electrical corporation” as defined in Section 218.~~

~~(e)~~

(c) “Electric service provider” means an “electric service provider” as defined in Section 218.3, but does not include corporations or persons employing cogeneration technology or producing electricity from other than a conventional power source consistent with subdivision (b) of Section 218.

~~(f) “Energy Commission” means the State Energy Resources Conservation and Development Commission.~~

~~(g)~~

(d) “Greenhouse gases” means those gases listed in subdivision (h) of Section 42801.1 of the Health and Safety Code.

~~(h)~~

(e) “Load-serving entity” means every electrical corporation, electric service provider, or community choice aggregator serving end-use customers in the state.

~~(i) “Local publicly owned electric utility” means a “local publicly owned electric utility” as defined in Section 9604.~~

~~(j)~~

(f) “Long-term financial commitment” means either a new ownership investment in baseload generation or a new or renewed contract with a term of five or more years, which includes procurement of baseload generation.

~~(k)~~

(g) “Output-based methodology” means a greenhouse gases emission performance standard that is expressed in pounds of greenhouse gases emitted per megawatthour and factoring in the useful thermal energy employed for purposes other than the generation of electricity.

~~(t)~~

(h) “Plant capacity factor” means the ratio of the electricity produced during a given time period, measured in kilowatthours,

1 to the electricity the unit could have produced if it had been
2 operated at its rated capacity during that period, expressed in
3 kilowatthours.

4 (m)

5 (i) “Powerplant” means a facility for the generation of electricity,
6 and includes one or more generating units at the same location.

7 (n)

8 (j) “Zero- or low-carbon generating resource” means an
9 electrical generating resource that will generate electricity while
10 producing emissions of greenhouse gases at a rate substantially
11 below the greenhouse gases emission performance standard, as
12 determined by the commission.

13 SEC. 29. Section 9604 of the Public Utilities Code is amended
14 to read:

15 9604. For purposes of this division, the following definitions
16 apply:

17 (a) “Direct transaction” means a contract between one or more
18 electric generators, marketers, or brokers, public or private, of
19 electric power and one or more retail customers providing for the
20 purchase and sale of electric power and ancillary services.

21 (b) “Service area” means an area in which, as of December 20,
22 1995, an investor-owned electric utility or a local publicly owned
23 electric utility was obligated to provide service.

24 (c) “Severance fee” or “transition charge” for a local publicly
25 owned electric utility shall mean that charge or periodic charge
26 assessed to customers to recover the reasonable uneconomic portion
27 of costs associated with generation-related assets and obligations,
28 nuclear decommissioning, and capitalized energy efficiency
29 investment programs approved prior to August 15, 1996.

30 ~~(d) “Local publicly owned electric utility” as used in this~~
31 ~~division means a municipality or municipal corporation operating~~
32 ~~as a “public utility” furnishing electric service as provided in~~
33 ~~Section 10001, a municipal utility district furnishing electric service~~
34 ~~formed pursuant to Division 6 (commencing with Section 11501),~~
35 ~~a public utility district furnishing electric services formed pursuant~~
36 ~~to the Public Utility District Act set forth in Division 7~~
37 ~~(commencing with Section 15501), an irrigation district furnishing~~
38 ~~electric services formed pursuant to the Irrigation District Law set~~
39 ~~forth in Division 11 (commencing with Section 20500) of the~~
40 ~~Water Code, or a joint powers authority that includes one or more~~

1 of these agencies and that owns generation or transmission
2 facilities, or furnishes electric services over its own or its member's
3 electric distribution system.

4 SECTION 1. Section 25740 of the Public Resources Code is
5 amended to read:

6 25740. It is the intent of the Legislature in establishing this
7 program, to increase the amount of electricity generated from
8 eligible renewable energy resources per year, so that it equals at
9 least 33 percent of total retail sales of electricity in California per
10 year by December 31, 2020.

11 SEC. 2. Section 399.11 of the Public Utilities Code is amended
12 to read:

13 399.11. The Legislature finds and declares all of the following:

14 (a) In order to attain a target of generating 33 percent of total
15 retail sales of electricity in California from eligible renewable
16 energy resources by December 31, 2020, and for the purposes of
17 increasing the diversity, reliability, public health and environmental
18 benefits of the energy mix, it is the intent of the Legislature that
19 the commission and the State Energy Resources Conservation and
20 Development Commission implement the California Renewables
21 Portfolio Standard Program described in this article.

22 (b) Increasing California's reliance on eligible renewable energy
23 resources may promote stable electricity prices, protect public
24 health, improve environmental quality, stimulate sustainable
25 economic development, create new employment opportunities,
26 and reduce reliance on imported fuels.

27 (c) The development of eligible renewable energy resources
28 and the delivery of the electricity generated by those resources to
29 customers in California may ameliorate air quality problems
30 throughout the state and improve public health by reducing the
31 burning of fossil fuels and the associated environmental impacts
32 and by reducing in-state fossil fuel consumption.

33 (d) The California Renewables Portfolio Standard Program is
34 intended to complement the Renewable Energy Resources Program
35 administered by the State Energy Resources Conservation and
36 Development Commission and established pursuant to Chapter
37 8.6 (commencing with Section 25740) of Division 15 of the Public
38 Resources Code.

1 ~~(e) New and modified electric transmission facilities may be~~
2 ~~necessary to facilitate the state achieving its renewables portfolio~~
3 ~~standard targets.~~

4 ~~SEC. 3. Section 399.15 of the Public Utilities Code is amended~~
5 ~~to read:~~

6 ~~399.15. (a) In order to fulfill unmet long-term resource needs,~~
7 ~~the commission shall establish a renewables portfolio standard~~
8 ~~requiring all electrical corporations to procure a minimum quantity~~
9 ~~of electricity generated by eligible renewable energy resources as~~
10 ~~a specified percentage of total kilowatthours sold to their retail~~
11 ~~end-use customers each calendar year, if sufficient funds are made~~
12 ~~available pursuant to Section 399.6 and Chapter 8.6 (commencing~~
13 ~~with Section 25740) of Division 15 of the Public Resources Code,~~
14 ~~to cover the above-market costs of eligible renewable energy~~
15 ~~resources.~~

16 ~~(b) The commission shall implement annual procurement targets~~
17 ~~for each retail seller as follows:~~

18 ~~(1) Each retail seller shall, pursuant to subdivision (a), increase~~
19 ~~its total procurement of eligible renewable energy resources by at~~
20 ~~least an additional 1 percent of retail sales per year so that 33~~
21 ~~percent of its retail sales are procured from eligible renewable~~
22 ~~energy resources no later than December 31, 2020. A retail seller~~
23 ~~with 33 percent of retail sales procured from eligible renewable~~
24 ~~energy resources in any year shall not be required to increase its~~
25 ~~procurement of renewable energy resources in the following year.~~

26 ~~(2) For purposes of setting annual procurement targets, the~~
27 ~~commission shall establish an initial baseline for each retail seller~~
28 ~~based on the actual percentage of retail sales procured from eligible~~
29 ~~renewable energy resources in 2001, and to the extent applicable,~~
30 ~~adjusted going forward pursuant to Section 399.12.~~

31 ~~(3) Only for purposes of establishing these targets, the~~
32 ~~commission shall include all electricity sold to retail customers by~~
33 ~~the Department of Water Resources pursuant to Section 80100 of~~
34 ~~the Water Code in the calculation of retail sales by an electrical~~
35 ~~corporation.~~

36 ~~(4) In the event that a retail seller fails to procure sufficient~~
37 ~~eligible renewable energy resources in a given year to meet any~~
38 ~~annual target established pursuant to this subdivision, the retail~~
39 ~~seller shall procure additional eligible renewable energy resources~~
40 ~~in subsequent years to compensate for the shortfall if sufficient~~

1 funds are made available pursuant to Section 399.6 and Chapter
2 8.6 (commencing with Section 25740) of Division 15 of the Public
3 Resources Code, to cover any above-market costs of eligible
4 renewable energy resources.

5 (5) If supplemental energy payments from the Energy
6 Commission, in combination with the market prices approved by
7 the commission, are insufficient to cover any above-market costs
8 of electricity procured from eligible renewable energy resources
9 through an electricity purchase agreement of at least 10 years'
10 duration, the commission shall allow a retail seller to limit its
11 annual procurement obligation to the quantity of eligible renewable
12 energy resources that can be procured with available supplemental
13 energy payments. A retail seller shall not be required to enter into
14 long-term contracts with operators of eligible renewable energy
15 resources that exceed the market prices established pursuant to
16 subdivision (c).

17 (c) The commission shall establish a methodology to determine
18 the market price of electricity for terms corresponding to the length
19 of contracts with eligible renewable energy resources, in
20 consideration of the following:

21 (1) The long-term market price of electricity for fixed price
22 contracts, determined pursuant to an electrical corporation's general
23 procurement activities as authorized by the commission.

24 (2) The long-term ownership, operating, and fixed-price fuel
25 costs associated with fixed-price electricity from new generating
26 facilities.

27 (3) The value of different products including baseload, peaking,
28 and as-available electricity.

29 (d) The Energy Commission shall provide supplemental energy
30 payments from funds in the New Renewable Resources Account
31 of the Renewable Resource Trust Fund to eligible renewable energy
32 resources pursuant to Chapter 8.6 (commencing with Section
33 25740) of Division 15 of the Public Resources Code, consistent
34 with this article, for any above-market costs. Indirect costs
35 associated with the purchase of eligible renewable energy resources
36 by an electrical corporation, including imbalance energy charges,
37 sale of excess energy, decreased generation from existing resources,
38 or transmission upgrades, shall not be eligible for supplemental
39 energy payments, but are recoverable in rates, as authorized by
40 the commission. The Energy Commission shall not award

- 1 supplemental energy payments to service load that is not subject
2 to the renewable energy public goods charge.
- 3 ~~(e) The establishment of a renewables portfolio standard shall~~
4 ~~not constitute implementation by the commission of the federal~~
5 ~~Public Utility Regulatory Policies Act of 1978 (Public Law~~
6 ~~95-617).~~
- 7 ~~(f) The commission shall consult with the Energy Commission~~
8 ~~in calculating market prices under subdivision (e) and establishing~~
9 ~~other renewables portfolio standard policies.~~